

The following additional items will be considered at a closed meeting on Tuesday, July 21, 1987, at 2:30 p.m.

Institution of administrative proceeding of an enforcement nature.

Regulatory matter bearing enforcement implications.

An open meeting scheduled for Wednesday, July 22, 1987, at 10:00 a.m. has been changed to Wednesday, July 22, 1987, at 9:15 a.m.

Commissioner Fleischman, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Morris at (202) 272-3085.

July 20, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-16717 Filed 7-20-87; 1:22 pm]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1390)

TIME AND DATE: 9 a.m. (EDT), Friday, July 24, 1987.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 24, 1987.

Discussion Item

1. Preliminary rate review.

Action Items

A—Budget and Financing

A1. Modification of Fiscal Year 1987 Capital Budget Financed from Power Proceeds and Borrowings.

A2. Revision to Fiscal Year 1987 Capital Budget Financed from Appropriations.

A3. Revision to Fiscal Year 1987 Operating Budget Financed from Appropriations.

A4. Revision to Fiscal Year 1987 Operating Budget Financed from Nonpower Proceeds.

B—Purchase Awards

¹ B1. Invitation SD-732067 Second Reissue—Indefinite Quantity Term

¹ Items approved by individual Board members. This would give formal ratification to the Board's action.

Agreement for Office Furniture for the Division of Property and Services.

B2. Invitation KA-466381—Stacker/Reclaimer System, Including Installation, for Shawnee Fossil Plant.

D—Personnel Items

D1. Personal Services Contract with Coopers & Lybrand, Knoxville, Tennessee, for Professional Accounting Services, Requested by the Office of the Inspector General.

D2. Supplement to Personal Services Contract No. TV-67884A with Digital Engineering, Inc., Huntsville, Alabama, Providing for Additional Services in Connection with the Environmental Qualification Evaluation of Safety-Related Electrical Equipment at TVA Nuclear Plants, Requested by the Office of Nuclear Power.

D3. Supplement to Personal Services Contract No. TV-69831A with DiBenedetto Associates, North Andover, Massachusetts, for Assistance in Connection with Nuclear Plant Licensing Activities, Requested by the Office of Nuclear Power.

D4. Supplement to Personal Services Contract No. TV-65374A with United Engineers and Constructors, Inc., Philadelphia, Pennsylvania, Providing for the Performance of General Engineering, Design, and Architectural Services, Requested by the Office of Nuclear Power.

D5. Supplement to Personal Services Contract with Duke Engineering & Services, Inc., Charlotte, North Carolina, for Technical Assistance in Connection with Piping Analysis and Pipe Support Design Update Program for Watts Bar Nuclear Plant Unit 1, Requested by the Office of Nuclear Power.

D6. Supplement to Personal Services Contract No. TV-69450A with Cataract, Incorporated, Newtown, Pennsylvania, to Provide for Resources to Support the Browns Ferry Configuration Baseline Effort, Requested by the Office of Nuclear Power.

D7. Personal Services Contract for Engineering Services at Sequoyah Nuclear Plant—General Design and Field Support, Requested by the Office of Nuclear Power.

E—Real Property Transactions

E1. Grant and Conveyance of Easements and Highway Rights of Way to State of Mississippi, Affecting Approximately 7.7 Acres of Land Acquired for Construction of the Yellow Creek Distribution Center Access Roads and Railroads.

E2. Sales of Permanent Sewerline Easement to the Metropolitan Government of Nashville and Davidson County, Affecting a .25-Acre Portion of

TVA's South Nashville 161-kV Substation Property at Nashville.

F—Unclassified

¹ F1. Memorandum of Understanding Between National Rural Electric Cooperative Association and TVA Covering Arrangements for Cooperation in Rural Job Creation and Community Development Activities.

F2. Supplement to Contract No. TV-62329A with Middle Tennessee Industrial Development Association to Provide Assistance under TVA's Special Opportunities Counties Program.

F3. Supplement to Contract No. TV-69460A with Chattanooga State Technical Community College for Cooperation in a Project to Conduct Job-Search Workshops and Provide for Training, Job Placement, and Relocation Assistance to Dislocated Tennessee Chemical Company Workers in Copper Hill, Tennessee.

F4. Supplement to Contract No. TV-68199A with W.S. Fleming & Associates, Inc., Providing for Research Activities by TVA in Support of the Mountain Cloud Chemistry/Forest Exposure Study.

F5. Contract No. TV-72467A with U.S. Department of the Air Force, Engineering and Services Center, Covering Arrangements for TVA to Conduct Hydrogeologic Investigations in Support of Bioreclamation at Columbus Air Force Base in Columbus, Mississippi.

F6. Contract No. TV-72468A with U.S. Department of the Army, Corps of Engineers, Memphis District, for Performance by TVA of Distributional Surveys of Mussel Species *Potamilius capax* in the St. Francis River Basin.

F7. Subagreement to Memorandum of Agreement No. TV-23928A between TVA and U.S. Department of the Army, Corps of Engineers, Covering Arrangements for Removal of Concrete in Miter Gate Machinery Recess Bays at Pickwick Main Lock.

F8. Interagency Agreement (Contract No. TV-72473A) with U.S. Department of Energy (DOE) Covering Arrangements for TVA to Provide Technical Assistance in DOE's Alcohol Fuel Loan Guarantee Program.

¹ F9. Amendment to Administrative Cost Recovery Regulations Providing for Recovery of Certain Administrative Costs in Processing Quota Deer Hunt Permit Applications at Land Between the Lakes.

F10. Revised Organization Bulletin for TVA.

CONTACT PERSON FOR MORE

INFORMATION: Alan Carmichael, Director of Information, or a member of his staff

can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: July 17, 1987.

John G. Stewart,

Manager of Policy, Planning and Budget.

[FR Doc. 87-16681 Filed 7-20-87 9:23 am]

BILLING CODE 8120-01-M

Corrections

Federal Register

Vol. 52, No. 140

Wednesday, July 22, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2921-7]

Standards of Performance for New Stationary Sources; Quality Assurance Requirements for Gaseous Continuous Emission Monitoring Systems Used for Compliance Determination

Correction

In rule document 87-12564 beginning on page 21003 in the issue of Thursday, June 4, 1987, make the following corrections:

Appendix F to Part 60 [Corrected]

1. On page 21008, in the second column, in paragraph 4.3, in the second line, "for" should read "or".

2. On page 21009, in the first column, in paragraph (3), in the 15th line, "preparation" was misspelled.

3. On the same page, in the second column, in the sixth line, after "control" insert "take necessary corrective action to eliminate the problem. Following"; and in the eighth line, after "or" insert "RAA to determine whether the CEMS is operating properly. A".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

46 CFR Part 581

[Docket No. 86-6]

Service Contracts

Correction

In rule document 87-14583 beginning on page 23989 in the issue of Friday, June 26, 1987, make the following corrections:

§ 581.1 [Corrected]

1. On page 24006, in the first column, in § 581.1(i), in the first line, "Non-vessel-operation" should read "Non-vessel-operating".

2. On the same page, in the second column, in § 581.1(n), in the second line,

"shipper" was misspelled, and in the 12th line "portion" should read "port".

3. On the same page, in the second column, in § 581.1(q), in the third line, "distributes" was misspelled.

For a Federal Maritime Commission correction to this document, see the Notices Section of this issue.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0153]

The Dow Chemical Co.; Filing of Food Additive Petition

Correction

In notice document 87-12660 appearing on page 21122 in the issue of Thursday, June 4, 1987, make the following correction:

On page 21122, in the second column, in the **SUPPLEMENTARY INFORMATION**, in the seventh line, "458674" should read "48674".

BILLING CODE 1505-01-D

Federal Register

Wednesday
July 22, 1987

Part II

Department of Transportation

National Highway Traffic Safety
Administration

23 CFR Part 1309

Incentive Grant Criteria for Alcohol
Traffic Safety Programs; Final Rule and
Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1309

[Docket No. 82-18; Notice 10]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, by extending from three to five, the number of fiscal years in which a State may receive section 408 incentive grants.

The amendments made in today's final rule revise portions of the agency's regulation implementing section 408 of the Highway Safety Act of 1966, to reflect this statutory change. These amendments do not change the substantive requirements for qualifying a State for incentive grant funds; they merely implement the change mandated by section 203. Revisions to other portions of this regulation, relating to supplemental alcohol incentive grants, are being proposed under a separate rulemaking action which is published in a Notice of Proposed Rulemaking elsewhere in this issue of the *Federal Register*.

EFFECTIVE DATE: The amendments made by this final rule are effective on July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, Room 5125, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366-1755.

SUPPLEMENTARY INFORMATION: On April 2, 1987, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, was enacted by Congress. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, Incentive Grant Criteria for Alcohol Traffic Safety Programs (the 408 program). The Act extends from three to five, the number of fiscal years in which a State may receive section 408 grants. This extension applies to basic, supplemental and special grants, awarded under the section 408 program.

Background

The 408 program was enacted in 1982, Pub. L. 97-364, as a two-tier grant program, providing Federal funds (basic and supplemental grants) to States that qualify by implementing certain programs designed to reduce the drunk driving problem. The amount received as a basic grant equals 30 percent of the State's FY 1983 section 402 apportionment. The amount received as a supplemental grant may not exceed 20 percent of the State's FY 1983 section 402 apportionment. Section 402 apportionments are made to the States under a grant program established by the Highway Safety Act of 1966, 23 U.S.C. 402, to aid the States in conducting highway safety programs.

In 1984, section 408 was amended, Pub. L. 98-363, to expand the scope of the 408 program to include drugged as well as drunk driving countermeasures and to establish a third grant for which States may qualify (special grants) to encourage the States to enact tough minimum sentencing standards. The amount received as a special grant may not exceed 5 percent of the State's FY 1984 sections 402 and 408 apportionments.

Under the 1982 Act, as amended in 1984, States could receive section 408 incentive grants in no more than three fiscal years although, as discussed in the NPRM published elsewhere in today's *Federal Register*, the years in which a basic grant is received need not be the same years as those in which a supplemental grant is received. Similarly, a special grant could be received in different years than those in which a basic or supplemental grant is received. The Act also provided that in the first fiscal year the State receives a grant, the Federal share could not exceed 75 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. The Federal share could not exceed 50 percent of such cost in the second fiscal year, and 25 percent in the third.

Extension From Three Years to Five Years

Section 203 of Pub. L. 100-17 amends section 408 by extending from three to five, the number of fiscal years in which a State may receive section 408 incentive grants. The section also provides that the Federal share in the fourth and fifth fiscal year may not exceed 25 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. This revision implements these changes.

Because this regulation relates to grants, the requirements of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable. Moreover, the legislative change addressed in this final rule involves no discretion on the part of the agency. As a result, the agency does not believe it would benefit by the notice and comment procedures with regard to the amendments made by today's final rule. These amendments merely implement the legislation by making the changes to the agency's regulations about which the agency has no discretion. They do not change the substantive requirements for qualifying a State for incentive grant funds. Therefore, even if the notice and comment provisions of the Administrative Procedure Act did apply, the agency would have good cause to dispense with notice and comment as unnecessary.

By contrast, the agency has discretion in implementing those changes in the legislation which pertain to supplemental grants. The agency believes that it would benefit by affording interested parties with notice and an opportunity to comment on revisions to the portions of the agency's Incentive Grant Criteria for Alcohol Traffic Safety Programs regulation, 23 CFR Part 1309, relating to supplemental alcohol incentive grants. A Notice of Proposed Rulemaking on this subject is being published elsewhere in this issue of the *Federal Register*. (See that notice for details.)

There are a number of States that first qualified for basic grants in FY 1984, and that may be eligible for a fourth year basic grant in FY 1987. Such States may apply immediately for a fourth year basic grant in FY 1987 in accordance with the procedures established in 23 CFR 1309.4. The Notice of Proposed Rulemaking published elsewhere in this issue of the *Federal Register* explains when such States may apply for a fourth and fifth year of supplemental grant funds.

Section 203 of Pub. L. 100-17 also amends section 408 of the Highway Safety Act by providing that "sums authorized by this subsection shall remain available until expended." The period of availability of 408 funds is not stated in the Agency's Incentive Grant Criteria for Alcohol Traffic Safety Programs regulations. This legislative change is therefore not inconsistent with the agency's current regulation, and will require no regulatory revisions.

This final rule includes a technical correction to § 1309.4(a)(2) of the regulation, to reflect a reorganization

that recently took place within the agency.

Section 1309.4(a)(3) is being amended to reflect that a State may submit an alcohol safety plan which covers as many as five years. States continue to have the option of submitting either single year or multiple year plans. The agency believes the other amendments to § 1309.4 require no explanation.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. State participation in the 408 program is voluntary. Accordingly, a full regulatory evaluation is not necessary. Moreover, this rule merely implements the non-discretionary aspects of the new law. Thus, if there were any economic impacts associated with this action, they would flow from the law, not this rule.

When the agency promulgated regulations to implement the section 408 program on February 7, 1983 (48 FR 5545), it determined that the rulemaking should be classified as significant under the Department's regulatory policies and procedures. A regulatory evaluation was prepared at that time and placed in the public docket (Docket No. 82-18; Notice 5). Persons interested in reviewing this document should request it from the docket section.

As discussed above, since this matter relates to grants, the notice and comment requirements established in the Administrative Procedure Act, 5 U.S.C. 553, are not applicable. Moreover, the agency does not believe it is necessary to afford the public with notice and an opportunity to comment.

The revisions in this document merely reflect statutory changes mandated by section 203 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. They require no interpretation and provide the agency with no discretion.

Because the agency is not required to publish a notice of proposed rulemaking regarding this rule, the agency is not required to analyze the effect of this rule on small entities, in accordance with the Regulatory Flexibility Act. The agency has nonetheless evaluated the effects of this rule on small entities. Based on the evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. States will be recipients of any funds awarded under the regulation and, accordingly, no regulatory flexibility analysis is necessary.

The requirements in this rule that States retain and report to the Federal government information which demonstrates compliance with alcohol incentive grant criteria are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these requirements have been submitted to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through April 30, 1990; OMB No. 2127-0501.

The Agency has also analyzed this action for the purpose of the National Environmental Policy Act. The Agency has determined that this action will not have any effect on the human environment.

Effective date

Because the amendments are not covered by the Administrative

Procedure Act, and since they only contain technical changes or merely implement legislative changes and do not impose any additional requirements, the amendments are effective upon publication in the Federal Register.

List of Subjects in 23 CFR Part 1309

Alcohol, Drugs, Grant programs, Transportation, Highway safety.

PART 1309—[AMENDED]

In accordance with the foregoing, Part 1309 of Title 23 of the Code of Federal Regulations is revised as follows:

1. The authority citation for Part 1309 continues to read as follows:

Authority: 23 U.S.C. 408; delegation of authority at 49 CFR 1.50.

§ 1309.4 [Amended]

2. Section 1309.4(a)(2) is revised to read as follows:

* * *

(2) Submit a certification to the Director, Office of Alcohol and State Programs, NTS-20, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 that:

3. In § 1309.4(a)(3), the phrase "for one, two or three years, as applicable" is replaced with the phrase "up to five years, as applicable".

4. In § 1309.4(b), line 2, the word "three" is replaced with the word "five".

5. In § 1309.4(b)(6), the phrase ", fourth and fifth" is inserted after the word "third" and an "s" is added to the word "year".

Issued on July 17, 1987.

Diane K. Steed,

National Highway Traffic Safety
Administrator.

[FR Doc. 87-16611 Filed 7-17-87; 2:12 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1309

[Docket No. 82-18; Notice 9]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, by extending from three to five, the number of fiscal years in which a State may receive alcohol incentive grants.

This Notice of Proposed Rulemaking (NPRM) proposes revisions to portion of the agency's regulation implementing section 408 of the Highway Safety Act of 1966, relating to supplemental alcohol incentive grants, to reflect this statutory change. Other portions of the regulation are being amended under a separate rulemaking action which is published elsewhere in this issue of the *Federal Register*. The agency requests comments on the proposed changes discussed in this notice.

DATE: Comments must be received by August 21, 1987. The rule will be effective upon publication of the final rule in the *Federal Register*.

ADDRESS: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, NTS-01, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590; telephone (202) 366-1755.

SUPPLEMENTARY INFORMATION: On April 2, 1987, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, was enacted by Congress. Section 203 of the Act amends section 408, of the Highway Safety Act, 23 U.S.C. 408, Incentive Grant Criteria for Alcohol Traffic Safety Programs (the 408 program).

Background

The 408 program was enacted in 1982, Pub. L. 97-364, as a two-tier grant program, providing Federal funds (basic and supplemental grants) to States that qualify by implementing certain programs designed to reduce the drunk driving problem. The amount received as a basic grant equals 30 percent of the State's FY 1983 section 402 apportionment. The amount received as a supplemental grant may not exceed 20 percent of the State's FY 1983 section 402 apportionment. Section 402 apportionments are made to the States under a grant program established by the Highway Safety Act of 1966, 23 U.S.C. 402, to aid the States in conducting highway safety programs.

In 1984, section 408 was amended, Pub. L. 98-363, to expand the scope of the 408 program to include drugged as well as drunk driving countermeasures and to establish a third grant for which States may qualify (special grants) to encourage States to enact tough minimum sentencing standards. The amount received as a special grant may not exceed 5 percent of the State's FY 1984 section 402 and 408 apportionments.

Under the 1982 Act, as amended in 1984, States could receive section 408 incentive grants in no more than three fiscal years although, as discussed in further detail below, the years in which a supplemental grant is received need not be the same years as those in which a basic grant is received. Similarly, a special grant could be received in different years than those in which a basic or supplemental grant is received. The Act also provided that in the first fiscal year the State receives a grant, the Federal share could not exceed 75 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. The Federal share could not exceed 50 percent of such cost in the second fiscal year, and 25 percent in the third.

Section 203 of Pub. L. 100-17 amends section 408 by extending from three to five, the number of fiscal years in which a State may receive section 408 incentive grants. The section also provides that the Federal share in the fourth and fifth fiscal year may not exceed 25 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. In a separate rulemaking action published elsewhere in this issue of the *Federal Register*, the Agency is issuing a final rule to implement these changes. (See that rule for details.)

Supplemental Grants

Congress provided in section 408 that a State is eligible for a supplemental grant if the State is eligible for a basic grant and provides for some or all of the criteria established by the Secretary of Transportation. By regulation, a total of twenty-two supplemental criteria have been promulgated. Under the agency's current regulation, in addition to showing that it has a license suspension system in which the average time from arrest to suspension of a license does not exceed an average of 45 days, a State must demonstrate compliance with eight of the twenty-two criteria to qualify for a 20 percent supplemental grant in the first year, or with four of these criteria to qualify for a 10 percent supplemental grant. To qualify for a supplemental grant for a second and a third year, a State must show that it has increased its performance for each of the requirements previously adopted, and adopt two more requirements for each subsequent year, except that a State does not have to implement more than a total of fifteen criteria.

The agency is seeking comments on the manner in which a State must demonstrate that it qualifies for a supplemental grant in the fourth and fifth years. In extending the grant availability for two additional fiscal years, Congress did not provide any guidance on whether it expected an increase in the stringency of requirements to qualify a State for a grant, either as to the number of criteria to be met or the performance level of criteria already adopted.

The agency proposes that a State would not have to adopt any additional requirements in the fourth and fifth years. For example, if a State qualifies for a supplemental grant by implementing eight supplemental criteria in the first year, the State would be required to adopt two additional supplemental criteria in the second and third fiscal years, for a total of twelve. In the fourth and fifth years, the State would be required to adopt no additional supplemental criteria. The agency is concerned that requiring a State to adopt additional criteria to qualify for a supplemental grant in the fourth and fifth fiscal years could diminish the effectiveness of criteria adopted in the first three fiscal years by diverting resources from implementation of those criteria. The agency requests comments from the public on this proposal.

The agency believes it may be difficult for a State to demonstrate increased performance for all previously

adopted criteria in each of the four fiscal years following the first year of qualification. However, we wish to ensure that each State continues to maintain the performance that it has achieved. Accordingly, we are proposing that, in the fourth and fifth fiscal years, a State need not show increased performance for criteria adopted in previous fiscal years. The State would only be required to demonstrate that performance has been maintained in the criteria previously adopted. The agency requests comments on this tentative conclusion.

There are a number of States which first qualified for basic and supplemental grants in FY 1984, and which may be eligible for a fourth year of these grants in FY 1987. The final rule published elsewhere in this issue of the Federal Register permits eligible States, which received basic grants in FY's 1984-86, to apply immediately for a fourth year basic grant in FY 1987 in accordance with the procedures established in 23 CFR 1309.4. The agency is making every effort to promulgate a final rule on these amendments regarding supplemental grants by the end of the fiscal year to allow eligible States to apply also for a fourth year of supplemental grant funds in FY 1987.

In the event that a final rule is issued after the end of FY 1987, eligible States may apply for a fourth year supplemental grant and a fifth year basic grant in FY 1988. They may apply for a fifth year supplemental grant in FY 1989, provided the State continues to meet the basic criteria during that year. This is consistent with a previous interpretation of the agency that section 408 does not require a State to qualify for grants in consecutive years, and that the five year limitation on a State receiving grants applies separately to each type of grant.

Comments

Interested persons are invited to comment on this proposal. All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by August 21, 1987. The agency has not provided a longer comment period because it wishes to expedite the implementation of the new law that extends from three

to five, the number of fiscal years in which a State may receive Alcohol Incentive grants. The agency's current regulation establishes procedures for States to qualify for such funds in only three years. Fourteen States may already be eligible to receive a fourth year of grant money in this fiscal year, which ends on September 30, 1987. In order to expedite the submission of comments, simultaneous with the issuance of this notice NHTSA will mail copies to all Governors and Governors' Representatives for Highway Safety.

All comments received before the close of business on the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 82-18; Notice 9 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. State participation in the 408 program is voluntary. Accordingly, neither a draft Regulatory Analysis nor a Preliminary Evaluation is required.

When the agency promulgated regulations to implement the section 408 program on February 7, 1983 (48 FR 5545), it determined that the rulemaking should be classified as significant under the Department's regulatory policies and procedures. A regulatory evaluation was prepared at that time and placed in the public docket (Docket No. 82-18; Notice 5). Persons interested in reviewing this document, should request it from the docket section.

In compliance with the Regulatory Flexibility Act, the agency has evaluated the effects of this rule on small entities. Based on the evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. States will be recipients of any funds awarded under the regulation and, accordingly, the preparation of an Initial Regulatory Flexibility Analysis is unnecessary.

The requirements in this proposal that States retain and report to the Federal government information which demonstrates compliance with alcohol incentive grant criteria, are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements have been submitted to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through April 30, 1990; OMB No. 2127-0501.

The agency has also analyzed this action for the purpose of the National Environmental Policy Act. The agency has determined that this action will not have any effect on the human environment.

List of Subjects in 23 CFR Part 1309

Alcohol, Drugs, Grant programs, Transportation, Highway safety.

PART 1309—[AMENDED]

In accordance with the foregoing, NHTSA proposes the revision of Part 1309 of Title 23 of the Code of Federal Regulations as follows:

1. The authority citation for Part 1309 continues to read as follows:

Authority: 23 U.S.C. 408; delegation of authority at 49 CFR 1.50.

§ 1309.6 [Amended]

2. Section 1309.6(e) is added to read as follows:

(e) To qualify for a supplemental grant for a fourth and fifth year, a State must show that it has maintained its performance for each of its previously adopted requirements.

Issued on July 17, 1987.

Diane K. Steed,
National Highway Traffic Safety
Administrator.

[FR Doc. 87-16612 Filed 7-17-87; 2:12 pm]

BILLING CODE 4910-59-M

40 CFR Part 300 Federal Register

Wednesday
July 22, 1987

Part III

Environmental Protection Agency

40 CFR Part 300

**National Priorities List for Uncontrolled
Hazardous Waste Sites; Final Rule and
Proposed Rule Concerning Federal
Facility Sites**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3187-6]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), and Executive Order 12580 (52 FR 2923, January 29, 1987). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List ("NPL"), initially promulgated as Appendix B of the NCP on September 8, 1983, constitutes this list and is being revised today by the addition of 67 sites to the final NPL and 32 Federal facility sites to the Federal section of the NPL. EPA has reviewed public comments on the listing of these sites and has decided that they meet the eligibility requirements of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be August 21, 1987. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the *Federal Register*.

ADDRESSES: Addresses for the Headquarters and Regional dockets follow. For further details on what these dockets contain, see Section I of the "Supplementary Information" portion of this preamble.

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SUPPLEMENTARY INFORMATION:

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I. Introduction

Organization of the Preamble

Section I of the preamble to this final rule, which adds 67 sites and 32 Federal facility sites to the National Priorities List (NPL), provides a guide to information in this preamble, explains

the historical background of the NPL, and provides information on the public docket for sites included in this rule. Sections II through IX are self-explanatory.

Background of the NPL

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 through 9657 ("CERCLA" or the "Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180) and amendments to the NCP on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912). The NCP and its amendments implement responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, take into account the potential urgency of such action for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to releases or threats of releases on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)).

Criteria for determining priorities for possible remedial actions financed by the Fund established under CERCLA are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA required that the criteria provided by the HRS be used to prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that to the extent practicable, at least 400 sites be designated on this National Priorities List (NPL). An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been expanded since then (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; and 51 FR 21054, June 10, 1986). On March 7, 1986

(51 FR 7935), EPA published a notice to delete eight sites from the NPL. The Agency has also had a number of proposed rulemakings regarding site listing (see 48 FR 9311, March 4, 1983; 48 FR 40674, September 8, 1983; 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; 51 FR 21099, June 10, 1986; and 52 FR 2492, January 22, 1987).

Section 105 of CERCLA has been amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) by the addition of subsection (c). This subsection requires that the Agency promulgate amendments to the hazard ranking system in effect as of September 1, 1984. The effective date for the amended hazard ranking will be no later than 24 months after the enactment of SARA. The amended hazard ranking system shall be applied to any site or facility to be newly listed on the NPL after the effective date for the amended hazard ranking system. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue to be used to evaluate sites for the NPL. In addition, section 105(c) specifies that the Agency will not be required to reevaluate, after the date of enactment of SARA, the hazard ranking of any site which was evaluated in accordance with the existing criteria required by section 105(c) and which was assigned a national priority under the NCP.

The Agency will continue to use the existing HRS until the revised HRS becomes effective. The 67 sites and 32 Federal facility sites added to the final NPL today were ranked with the existing HRS. These additions bring the total number of final NPL sites to 802. In addition, EPA has proposed to add 149 sites to the NPL, making the total number of proposed and final NPL sites to 951.

This final rule addresses sites proposed in NPL Update #2 (October 15, 1984), Update #3 (April 10, 1985), Update #4 (September 18, 1985), Update #5 (June 10, 1986), and Update #6 (January 22, 1987). EPA has carefully considered public comments submitted for the sites proposed in Updates #2, #3, and #4, and made some modifications in this final rule in response to those comments. For this final rule, EPA also considered only those sites proposed as part of Update #5 and Update #6 for which the Agency received no comments.

Responses to site-specific HRS comments are presented in the "Support Document for the Revised National Priorities List—Final Rule #3/#4," which is a separate document available in the EPA dockets in Washington, DC,

and the Regional Offices (see Addresses).

Information Available to the Public

The Headquarters and Regional public dockets for the NPL will contain HRS score sheets for each final site, a Documentation Record for each site describing the information used to compute the scores, a list of document references, comments received, and the "Support Document for the Revised National Priorities List—Final Rule #3/#4." The Regional public docket will also include the documents referenced in the Documentation Record which contain the background data EPA relied upon in calculating or evaluating the HRS scores. In addition, documents with some relevance to the scoring of each site, but which were not used as references, are also retained by the appropriate Regional offices. All of these documents will be available when this notice is published in the Federal Register.

The Headquarters public docket is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays.

Requests for copies of HRS score sheets, documentation records, background documents, and the Support Document should be directed to either the Headquarters or appropriate Regional docket (see Addresses). An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies.

A statement of EPA's information release policy, describing what information the Agency discloses in response to Freedom of Information Act requests from the public, was printed in the Federal Register (52 FR 5578, February 25, 1987).

II. Purpose and Implementation of the NPL

Purpose

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d, Sess. 60 (1980)):

The NPL serves primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so,

and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation, to assess the nature and extent of the public health and environmental risks associated with the site, and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake response actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. A site need not be on the NPL to be the subject of CERCLA-financed removal actions, actions brought pursuant to sections 106 or 107(a)(4)(b) of CERCLA, or remedial investigations/feasibility studies.

Federal facility sites are now eligible for inclusion on the NPL pursuant to § 300.66(e)(2) of the NCP. However, section 111(e)(3) of CERCLA as amended by SARA limits the expenditure of Superfund monies at Federally-owned facilities. Federal facility sites are subject to the requirements of section 120 of SARA.

Implementation

EPA's policy is to pursue cleanup of hazardous waste sites using the appropriate response and/or enforcement actions which are available to the Agency, including authorities other than CERCLA. Publication of sites on the NPL will serve as notice to any potentially responsible party that the Agency may initiate Fund-financed response action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, or whether to proceed directly with Superfund-financed CERCLA response actions and seek recovery of response costs after cleanup. To the extent feasible, once sites are listed on the NPL, EPA will determine high-priority candidates for either Superfund-financed response action or enforcement action through both State and Federal initiatives. These determinations will take into account which approach is more likely to most expeditiously accomplish cleanup of the site while using the Superfund's limited resources as efficiently as possible.

Funding of response actions for sites will not necessarily take place in the

same order as a site's ranking on the NPL. In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities.

The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies will take into account the extent and magnitude of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct an Agency response action at some sites on the NPL because of more pressing needs at other sites, or because an enforcement action may instigate or force private party cleanup. Given the limited resources available in Superfund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant response action.

Revisions to the NPL such as today's rulemaking may move some previously listed sites to a lower position on the NPL. If EPA has initiated action such as a remedial investigation/feasibility study (RI/FS) at a site, the Agency does not intend to cease such actions in order to determine if a subsequently listed site should have a higher priority for funding. Rather, the Agency will continue funding site studies and remedial actions once they have been initiated, regardless of whether higher-scoring sites are later added to the NPL.

The NPL does not determine priorities for removal actions; EPA may take removal actions at any site, whether listed or not, that meets the criteria of §§ 300.65 through 300.67 of the NCP. Likewise, EPA may take enforcement actions under applicable statutes against responsible parties regardless of

whether the site is on the NPL, although, as a practical matter, the focus of EPA's enforcement actions has been and will continue to be on NPL sites.

A site cannot undergo Superfund-financed remedial action until it is placed on the final NPL. However, an RI/FS can be performed at proposed sites pursuant to the Agency's removal authority under CERCLA, as outlined in § 300.68(a)(1) of the NCP. Section 101(23) of CERCLA defines "remove" or "removal" to include "such actions as may be necessary to monitor, assess and evaluate the release or threat of release * * *". The definition of "removal" also includes "action taken under section 104(b) of this Act * * *". Section 104(b) authorizes the Agency to perform studies, investigations, and other information-gathering activities.

The Agency may elect to conduct an RI/FS at a proposed NPL site in preparation for a possible Superfund-financed remedial action in a number of circumstances, such as when the Agency believes that delay in commencing the studies may create unnecessary risks to human health or the environment. In making such a decision, the Agency assumes the risk that after consideration of public comments and the consistent application of the HRS, it is possible that the proposed site might not qualify for the NPL. In assuming this risk, the Agency has determined that the desirability of expediting remedial action through the initiation of the investigational stage prior to placing a site on the NPL outweighs the risk of expending a limited amount of Superfund monies for the RI/FS. In addition, information obtained from an RI/FS can assist the Agency in determining whether to conduct a removal action at the site.

III. Process for Establishing and Updating the NPL

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS takes into account "pathways" to human or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS,

and which are otherwise eligible, are proposed for listing.

In addition, States may designate a single site as the State top priority. In rare instances, EPA may utilize the listing provision promulgated as § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985).

Section 300.66(b)(4) of the NCP allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
 - EPA determines that the release poses a significant threat to public health.
 - EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.
- States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, sampling, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the new sites that meet the criteria for listing and solicits public comment on the proposal. Based on these comments and further review by EPA, the Agency determines final scores and promulgates those sites that still qualify for listing.

Contents of This Final Rule

This final rule includes 67 sites and 32 Federal facility sites from several proposed rulemakings. Of the 67 sites promulgated in this final rule, 5 were proposed in Update #2, 12 in Update #3, 11 in Update #4, 16 in Update #5 and 23 in Update #6. The 32 Federal facility sites promulgated in this rule are discussed in section IV of this rule. These sites and Federal facility sites are listed in Table 1.

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Table 1 cont'd.

National Priorities List,
New Final Sites (by Rank)
February 1987

NPL Gr. Rank	Site Name	City/County	Response Category ₂	Cleanup Status ₃	NPL Gr. Rank	Site Name	City/County	Response Category ₂	Cleanup Status ₃
3 101 IL	Parsons Casket Hardware Co.	Belvidere			10 480 PA	William Dick Lagoons	West Galt Township		
3 133 VA	Greenwood Chemical Co.	Newtown	R	D	10 487 LA	Dutchtown Treatment Plant	Ascension Parish	D	D
3 139 NY	Jones Sanitation	Hyde Park							
3 143 DE	Coker's Sanitation Service Lfs	Kent County			11 508 PA	Aladdin Plating	Scott Township	V	R
3 144 HI	Rockwell International (Allegan)	Allegan			11 509 FL	Harris Corp. (Palm Bay Plant)	Palm Bay	S	I
4 170 IN	Waste, Inc., Landfill	Pittston	V F S	O	11 515 CA	Monolithic Memories	Sunnyvale		O
4 180 PA	Builer Mine Tunnel	Pittston	V R F		11 516 CA	National Semiconductor Corp.	Santa Clara	D	D
5 204 ND	Woodlawn County Landfill	Woodlawn			11 521 DE	Standard Chlorine of Delaware, Inc.	Delaware City	D	D
5 224 NC	Charles Mason Lagoon & Drum Stor	Cordova	R F	O	11 528 CA	Teledyne Semiconductor	Mountain View	D	D
5 238 VA	C & R Battery Co., Inc.	Hannibal	R F	I	11 542 NY	Richardson Hill Road Landfill/Pond	Sidney Center	D	D
5 242 OH	Ormet Corp.	Chesterfield County	V F S						
5 246 NJ	Dayco Corp./L. E Carpenter Co.	Hannibal	V S	O	12 555 CA	Waste Disposal, Inc.	Santa Fe Springs	D	D
6 255 CA	Firestone Tire (Salinas Plant)	Salinas	V S	O	12 563 NJ	Curcio Scrap Metal, Inc.	Saddle Brook Twp	D	D
6 282 PA	York County Solid Waste/Refuse Lf	Hopewell Township	V S	O	12 573 NC	Cape Fear Wood Preserving	Fayetteville	R	O
6 283 WI	Spickler Landfill	Spencer	V S	O	12 586 NJ	Cosden Chemical Coatings Corp.	Beverly	D	D
6 285 PA	Route 940 Drum Dump	Pocono Summit	D	I	12 587 MN	St. Augusta San Landfill/Engen Dump	St. Augusta Township	D	D
6 287 PA	C & D Recycling	Pocono Summit	D	I	12 591 NY	Genzale Plating Co.	Franklin Square	D	D
7 310 AZ	Hassayampa Landfill	Poston Township	R	O	12 595 PA	Keystone Sanitation Landfill	Union Township	D	O
8 362 CT	Revere Textile Prints Corp.	Hassayampa			12 596 NC	Carrollina Transformer Co.	Fayetteville	R F	O
8 370 NH	Mottolo Pig Farm	Sterling			12 598 PA	Bendix Flight Systems Division	Bridgewater Township	D	O
8 382 SC	Golden Strip Septic Tank Service	Raymond	R F S	O					
8 386 FL	Petroleum Products Corp.	Simpsonville			13 608 NY	Malta Rocket Fuel Area	Malta	D	D
8 391 WI	Algoma Municipal Landfill	Pembroke Park	V F S	O	13 609 MI	Kent City Mobile Home Park	Kent City	D	D
9 410 TN	Arlington Blending & Packaging	Algoma			13 613 KS	Obese Road	Hutchinson	D	D
9 426 DE	NCR Corp. (Millsboro Plant)	Arlington	R F	O	13 624 MT	Montana Pole and Treating	Butte	R	I
9 443 PA	Bally Ground Water Contamination	Millsboro	V F		13 629 WI	Tomah Fairgrounds	Tomah	D	D
10 457 MN	LaGrand Sanitary Landfill	Bally Borough	S		13 635 WA	Wyckoff Co./Eagle Harbor	Bainbridge Island	F	S
10 475 KY	Hove Valley Landfill	LaGrand Township			13 647 WI	Hagen Farm	Stoughton		
		Hove Valley			14 654 NY	Rove Industries Ground Water Cont	Noyack/Sag Harbor	R	O
					14 655 PA	Hebeika Auto Salvage Yard	Weisenberg Township	R	O
					14 659 CA	Applied Materials	Santa Clara	D	O
					14 675 PA	Revere Chemical Co.	Nockamixon Township	R	O
					14 691 WI	Hunts Disposal Landfill	Caledonia	R F	D
					14 693 OK	Tenth Street Dump/Junkyard	Oklahoma City		O
					15 702 WI	Tomah Armory	Tomah		
					15 712 PA	Reese's Landfill	Upper Macungie Twp	R	D
					15 721 VA	First Piedmont Quarry (Route 719)	Pittsylvania County	D	D
					15 726 IA	Shaw Avenue Dump	Charles City	D	D
					15 730 MN	Ritani Post & Pole	Sebeka	D	D
					15 735 AR	Jacksonville Municipal Landfill	Jacksonville	D	D
					15 736 AR	Rogers Road Municipal Landfill	Jacksonville	D	D
					15 738 SC	Palmetto Recycling, Inc.	Columbia	S	O

Number of New Final Sites: 67

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response R = Federal and State response
F = Federal enforcement S = State enforcement
D = Category to be determined

3: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

Table 1 cont'd.

National Priorities List,
Federal Facility Sites, New Final (by Group)
July 1987

NPL Gr. ₁	St	Site Name	City/County	Response Category, ₂	Cleanup Status, ₃
14	TX	Lone Star Army Ammunition Plant	Texas	R	R
15	CA	Moffett Naval Air Station	Sunnyvale	R	R
15	WA	Bangor Ordnance Disposal	Bremerton	R	R
16	CA	Mather AFB (AC&N Disposal Site)	Sacramento	R	R
Number of New Final Federal Facility Sites: 32					

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Table 1 cont'd.

National Priorities List,
Federal Facility Sites, New Final (by Group)
July 1987

NPL Gr. ₁	St	Site Name	City/County	Response Category, ₂	Cleanup Status, ₃
2	CA	McClellan AFB (36 Areas)	Sacramento	R	0
2	CO	Rocky Mountain Arsenal	Adams County	R	0
2	MO	Heidon Spring Quarry (USDOE/Army)	St. Charles County	R	0
2	TN	Milan Army Ammunition Plant	Milan	R	1
4	CA	Robins AFB (Landfill #4/Sludge Lag)	Houston County	R	0
4	NE	Corrhusker Army Ammunition Plant	Hall County	R	0
4	NJ	Naval Air Engineering Center	Lakehurst	R	0
4	UT	Hill Air Force Base (10 Areas)	Ogden	R	1
6	CA	Sacramento Army Depot	Sacramento	R	R
6	IL	Sangamo/Crab Orchard MNR (USDOI)	Cartersville	R	R
6	ME	Brunswick Naval Air Station	Brunswick	R	R
6	UT	Ogden Defense Depot	Ogden	R	R
7	CA	Lawrence Livermore Lab (USDOE)	Livermore	R	0
7	CA	Sharpe Army Depot	Lathrop	R	0
7	OK	Tinker AFB (Soldier Gr/Bldg 3001)	Oklahoma City	R	0
7	WA	McChord AFB (Hash Rack/Treatment)	Tacoma	R	R
9	CA	Castle Air Force Base (6 Areas)	Merced	R	1
9	CA	Norton Air Force Base (Landfill #2)	San Bernardino	R	R
10	AL	Alabama Army Ammunition Plant	Childersburg	R	0
10	NJ	Fort Dix (Landfill Site)	Pemberton Township	R	R
12	NY	Griffiss Air Force Base (11 Areas)	Rome	R	R
12	PA	Letterkenny Army Depot (SE Area)	Chambersburg	R	0
12	VA	Defense General Supply Center	Chesapeake County	R	0
12	WA	Fort Lewis (Landfill No. 3)	Tacoma	R	R
13	IL	Joliet Army Ammu Plant (Mfg Area)	Joliet	R	0
13	MN	Twin Cities Air Force (SAR Landfill)	Minneapolis	R	R
13	MO	Lake City Army Plant (NW Lagoon)	Independence	R	0
14	OR	Umatilla Army Depot (Lagoons)	Hermiston	R	R

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response R = Federal and State response
F = Federal enforcement S = State enforcement
D = Category to be determined

3: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

Update #2, proposed on October 15, 1984 (49 FR 40320), consisted of 208 sites and 36 Federal facility sites. On February 14, 1985, two New Jersey sites, the Glen Ridge Radium Site and the Montclair/West Orange Radium Site, were added to the NPL. On September 18, 1985, the Pratt & Whitney Aircraft/United Technologies Corp. Site in West Palm Beach, Florida, was repropounded in Update #4. On June 10, 1986 (51 FR 21054), EPA added 149 Update #2 sites to the NPL, dropped 6 sites from consideration because their HRS scores were below the 28.50 cutoff, and continued to propose 50 sites pending resolution of technical or policy issues. Today's rule promulgates 5 Update #2 sites. Four sites previously identified as related to the Resource Conservation and Recovery Act (RCRA) were discovered to have no RCRA relationship and are being promulgated because technical issues have been resolved. One additional site is being promulgated because all technical issues have been resolved, leaving 45 Update #2 sites proposed.

Update #3, proposed on April 10, 1985 (50 FR 14115) consisted of 26 sites and 6 Federal facility sites. One of these sites, the Lansdowne Radiation Site, in Lansdowne, Pennsylvania, was added to the NPL on September 16, 1985 (50 FR 37630). Of the remaining 25 Update #3 sites, 7 received no comments and were added to the NPL on June 10, 1986 (51 FR 21054). Of the 18 remaining Update #3 sites, 12 sites are being added to the NPL in this final rule. The remaining 6 sites continue to be proposed because of their RCRA status.

Update #4, proposed on September 18, 1985 (50 FR 37950), consisted of 38 sites and 3 Federal facility sites. Of the 38 Update #4 sites, 13 sites received no comments and were added to the NPL on June 10, 1986 (51 FR 21054). Of the remaining 25 Update #4 sites, 11 sites are being added to the NPL in this final rule. One Update #4 site, the Silver Creek Tailing Site in Park City, Utah, was removed from the NPL on October 17, 1986 as required by section 118(p) of SARA. Of the 13 remaining sites, 10 sites remain proposed because of the in RCRA status, and 3 sites remain proposed pending resolution of technical issues.

Update #5, proposed on June 10, 1986 (51 FR 21099), consisted of 43 sites and 2 Federal facility sites. The comment period closed on August 11, 1986. Of the 43 sites, 16 sites received no comments and are being added to the NPL as part of this final rule. The remaining 27 sites, plus the two Federal facility sites, continue to be proposed pending review of comments received.

Update #6, proposed on January 22, 1987 (52 FR 2492), consisted of 63 sites and 1 Federal facility site. The comment period closed on March 23, 1986. Of the 63 sites, 23 sites received no comments and are being added to the NPL as part of this final rule. No comments were received for the Federal facility site, and so it is included as well. The other 40 sites remain proposed.

All sites that remain proposed, including Federal facility sites, will be considered for future final rules. Although these sites remain proposed, the comment periods have not been extended or reopened.

To the extent practicable, EPA considered late comments received after the close of the comment periods. For this final rule, EPA considered all comments received by June 12, 1987. Based on the comments received on the proposed rules, as well as further investigation by EPA and the States, EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List—Final Rule #3/#4".

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants, or contaminants by expressly excluding some substances, such as petroleum, from the response program. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. For example, EPA has chosen not to list sites that result from contamination associated with facilities licensed by the Nuclear Regulatory Commission (NRC), on the grounds that the NRC has full authority to require cleanup of releases from those facilities (48 FR 40661, September 8, 1983). Where such other authorities exist, and the Federal Government can undertake or enforce cleanup pursuant to a particular established program, using the NPL to determine the priority or need for response under CERCLA may not be appropriate. Therefore, EPA has chosen not to consider certain types of sites for the NPL even though CERCLA may provide authority to respond. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may consider placing them on the NPL.

The NPL eligibility policies of particular relevance to this final rule—

Federal facility sites, RCRA sites, and mining waste sites—are discussed below. These policies, as well as other NPL eligibility policies, have been explained in greater detail in earlier rulemakings (51 FR 21054, June 10, 1986).

Releases From Federal Facility Sites

Prior to today's final rule, 48 Federal facility sites were proposed for the NPL. Today's final rulemaking adds 32 of these sites to the Federal section of the NPL, leaving 16 sites proposed. Of the 32, 28 sites were proposed on October 15, 1984 (49 FR 40320), 2 were proposed on April 10, 1985 (50 FR 14115), 1 site was proposed on September 18, 1985 (50 FR 37950), and 1 site was proposed on January 22, 1987 (52 FR 2492).

On June 10, 1986, the Agency announced final and proposed components of a listing policy for non-Federal, RCRA sites (51 FR 21057). The policy was intended to reflect the broadened corrective action authorities of the Hazardous and Solid Waste Amendments of 1984 (HSWA). As explained in greater detail below, the policy generally allows placing sites subject to RCRA Subtitle C corrective action authorities on the NPL if one or more of three criteria is met: (1) The owner/operator is bankrupt; (2) the owner/operator has lost authorization to operate and has exhibited probable unwillingness to perform corrective action; or (3) in cases other than loss of authorization to operate, the owner/operator has exhibited probable unwillingness to perform corrective action. When promulgating this policy, the Agency reserved for a later date the question whether this or another policy would be applicable for Federal facility sites. The Agency explained that this issue would be considered along with other issues relating to Federal facility sites (51 FR 21059, June 10, 1986).

Since that time, the Agency has considered the issue of placing Federal facility sites on the NPL. As part of its deliberations, EPA considered pertinent sections of SARA and the proposed policy regarding RCRA Subtitle C corrective action at Federal facilities with RCRA operating units (51 FR 7722, March 5, 1986). Specifically, that policy stated that: (1) RCRA section 3004(u) subjects Federal facilities to corrective action requirements to the same extent as privately-owned or privately-operated facilities and (2) the definition of a Federal facility boundary is equivalent to the property-wide definition of facility at privately-owned or privately-operated facilities. This policy was of particular interest because the Agency has determined that the vast

majority of Federal facilities that could be placed on the NPL have RCRA operating units within their boundaries.

The Agency has interpreted SARA and its legislative history to indicate that Congress clearly intended that Federal facilities be placed on the NPL and that, if appropriate, cleanup should be effected at those sites. In the floor debates, Senator Robert T. Stafford explained section 120 as follows:

Second, the amendments require a comprehensive nationwide effort to identify and assess all Federal hazardous waste sites that warrant attention The legislation . . . requires that any Federal facility that meets the criteria applied to private sites listed on the national priorities list [NPL] must be placed on the NPL. — Cong. Rec. S. 14902 (daily ed., Oct. 3, 1986).

Specifically, section 120 of SARA includes requirements for the assessment of releases at Federal facilities, placement on the NPL, and if appropriate, implementation of remedial action. Sections 120(a) and 120(d) also require that Federal facility sites be evaluated for the NPL based upon the same guidelines, rules, regulations, and criteria that are applicable to other sites.

Given that Congress clearly contemplated that Federal facility sites be on the NPL, the Agency interprets these provisions of section 120 to mean that the criteria to list Federal facility sites should not be more exclusionary than the criteria to list non-Federal sites on the NPL. Key elements of the current policy for listing non-Federal sites subject to RCRA Subtitle C corrective action authorities include whether the owner or operator has filed for bankruptcy or has clearly demonstrated unwillingness to comply with applicable RCRA requirements or regulations. Since bankruptcy proceedings are not applicable to Federal agencies and unwillingness to comply with Federal laws is unlikely, application of the non-Federal NPL/RCRA policy would have the incongruous effect of listing few Federal sites. The Agency believes that this result would be inconsistent with the spirit and intent of section 120.

In order to prevent the Agency from being more exclusionary in placing Federal facility sites on the NPL, the Agency has proposed a policy for Federal facility sites that would allow such otherwise eligible Federal facility sites to be on the NPL regardless of whether RCRA Subtitle C corrective action authorities are applicable (52 FR 17991, May 13, 1987). This proposed policy does not restrict the use of either RCRA corrective action or enforcement authorities to achieve cleanup at Federal facility sites. EPA is in the process of developing regulations for corrective

action under RCRA Subtitle C and for cleanup of CERCLA sites under the NCP. The cleanup goals established in those regulations will be consistent with each other, within the limits of each statute, and EPA expects that remedies selected and implemented under CERCLA will generally satisfy the RCRA Subtitle C corrective requirements, and vice versa.

In the interim period before a new policy is promulgated the important process of including Federal facility sites on the NPL should continue. As stated earlier, the Agency believes that this is clearly the intent of Congress.

Of the 32 Federal facility sites included in today's rule, 26 have areas subject to the Subtitle C corrective action authorities of RCRA within the facility boundaries but not within the HRS site itself. These 26 sites were proposed and are being promulgated according to the RCRA policy announced on September 8, 1983, which stated that non-regulated units of active facilities could be included on the NPL (48 FR 40662). In accordance with that policy, land disposal units that received hazardous waste after the effective date of the RCRA Subtitle C land disposal regulations, are not included in today's listings. This policy remains applicable to Federal facility sites until the Agency promulgates a new policy. Consistent with the policy proposed on May 13, 1987 (52 FR 1799), placing these 26 sites on the NPL will not preclude these sites from being addressed by the corrective action authorities of Subtitle C of RCRA.

The Agency believes that placing RCRA-related Federal facility sites on the NPL is consistent with the intent of Section 120 of SARA and will serve the purposes originally intended by § 300.66(e)(2) of the NCP—to advise the public of the status of Federal government cleanup efforts (50 FR 47931, November 20, 1985). In addition, listing will help other Federal agencies set priorities and focus cleanup efforts on those sites that present the most serious problems.

Of the 32 Federal facility sites in today's rule, 6 do not include any RCRA regulated units within the facility boundaries.

They are:

- Alabama Army Ammunition Plant—Childersburg, AL
- Moffett Naval Air Station—Sunnyvale, CA
- Twin Cities Air Force Reserve Base—Minneapolis, MN
- Weldon Spring Quarry (USDOE/Army)—St. Charles County, MO
- Cornhusker Army Ammunition Plant—Hall County, NE

• Naval Air Engineering Center—Lakehurst, NJ

Of the 16 Federal facility sites that remain proposed, 7 are being repropoed today in a separate **Federal Register** notice because it appears that the areas within the boundaries of these Federal facility sites evaluated for the NPL included areas subject to the corrective action authorities of Subtitle C RCRA. Although these sites are being repropoed consistent with the proposed RCRA/Federal facilities policy published in the **Federal Register** on May 13, 1987 (52 FR 17991), the Agency believes that it is appropriate to solicit additional public comment on the HRS scores for these sites. In today's separate **Federal Register** notice, the Agency also solicits comments on the proposed expansion of the Rocky Mountain Arsenal Site in Denver, Colorado. All 16 Federal facility sites remaining proposed will be considered in future final rules.

Releases From Resource Conservation and Recovery Act (RCRA) Sites

On June 10, 1986 (51 FR 21057), EPA announced components to a final policy for placing on the NPL sites subject to the corrective action authorities of Subtitle C of RCRA. At the same time, the Agency requested comment on several proposed components of the NPL/RCRA policy (51 FR 21109). Under the final policy, sites not subject to RCRA Subtitle C corrective action authorities will remain eligible for the NPL. Examples of NPL-eligible sites include:

• Facilities that ceased treating, storing, or disposing of hazardous wastes prior to November 19, 1980 (the effective date of Phase I of the Subtitle C land disposal regulations).

• Sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed.

• Hazardous waste generators or transporters not required to have Interim Status or a final RCRA permit.

Sites with releases that can be addressed under the RCRA Subtitle C corrective action authorities generally will not be placed on the NPL. However, RCRA sites may be listed if they meet all of the other criteria for listing (e.g., an HRS score of 28.50 or greater), and if they fall within one of the following categories:

(1) Facilities owned by persons who are bankrupt.

(2) Facilities that have lost authorization to operate, when Interim Status is terminated under RCRA section 3008(h), by permit denial under

RCRA 3005(c), or by operation of RCRA section 3005(e); and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action.

(3) Sites, analyzed on a case-by-case basis, whose owners or operators have shown an unwillingness to undertake corrective action.

Currently, the Agency is considering comments on the components of the NPL/RCRA policy proposed on June 10, 1986 (51 FR 21109).

Based on the final NPL/RCRA policy described above, EPA is adding two RCRA-related sites to the NPL. The owner/operators of both facilities are bankrupt, thus meeting the eligibility requirements of the first component of the final policy. Documentation supporting the Agency's decision to list these RCRA sites is available in the docket. The two sites are:

- Parsons Casket Hardware Co.—Belvidere, IL.
- Palmetto Recycling, Inc.—Columbia, SC.

The four sites listed below were proposed on October 15, 1984 (19 FR 40320). They remained proposed because the Agency believed that they were subject to the subtitle C authorities of RCRA (51 FR 21054, June 10, 1986). Subsequent investigation revealed that these sites are not subject to the Subtitle C authorities of RCRA. These sites met the requirements of the HRS, and the Agency received no information which precluded placing the sites on the NPL. Documentation describing the RCRA status of these sites is available in the appropriate Superfund dockets.

- Applied Materials—Santa Clara, CA.
- Monolithic Memories, Inc.—Sunnyvale, CA.
- National Semiconductor Corp.—Santa Clara, CA.
- Teledyne Semiconductor—Mountain View, CA.

Releases of Mining Wastes

The Agency's position, as discussed in the preambles to previous final NPL rulemakings (48 FR 40658, September 8, 1983; 49 FR 37070, September 21, 1984; 51 FR 21054, June 10, 1986) is that mining wastes may be hazardous substances, pollutants, or contaminants under CERCLA and, therefore, are eligible for the NPL. This position was affirmed in 1985 by The United States Court of Appeals for the District of Columbia Circuit (*Eagle-Picher Industries, Inc. v. EPA*, 759 F.2d 905, D.C. Cir. 1985). While SARA now places some limitations on adding mining sites to the NPL, the limitations do not apply to sites already on or proposed for the NPL.

EPA has already listed or proposed several mining waste sites. Eight sites were proposed for the NPL on October 15, 1984 (49 FR 40320). Another mining site, the Silver Creek Tailings site in Park City, Utah, was proposed on September 18, 1985 (50 FR 37950).

In past proposed rules, the Agency has deferred the decision to list mining sites if they might be addressed satisfactorily pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Agency intends to continue with this approach until a final policy regarding mining sites has been adopted.

The Agency added six mining sites to the final NPL (51 FR 21054, June 10, 1986) because they were neither regulated by SMCRA nor eligible for SMCRA's Abandoned Mine Land Reclamation program.

This final rule announces decisions related to two mining sites, the Silver Bow Creek Site, and the Silver Creek Tailings Site.

The Silver Bow Creek Site, in Deer Lodge and Silver Bow Counties, Montana, was added to the NPL on September 8, 1983 (48 FR 40658). At that time, the site was characterized as approximately 28 stream miles. Subsequent investigations indicated that sources in Butte, upstream of the original Silver Bow Creek Site, are contributing to contamination in the creek. In the June 10, 1986 (51 FR 21099) proposed rule, EPA solicited comments on the appropriateness of adding the Butte area to the original Silver Bow Creek Site in order to include the upstream sources of contamination.

The Agency received comments from two interested parties. After reviewing the comments, EPA decided that they presented no new information to indicate that the site should not be expanded as proposed. Consequently, for the purposes of the NPL, the Silver Bow Creek Site now includes the Butte area. The site name has been changed to "Silver Bow Creek/Butte Area Site".

One commenter concurred with the position to include the Butte area and recommended that the site be expanded further downstream to encompass other affected areas. The commenter has not, however, provided data to support the further expansion of the site downstream. The Agency believes that the data currently available indicate that the site should be limited to the Silver Bow-Creek/Butte Area. However, if additional studies suggest that the site should be further expanded, the Agency will consider such a decision at that time.

The second commenter agreed that the Butte area should be combined with

the existing Silver Bow Creek site, but disagreed that the two areas should be studied under one comprehensive RI/FS. The commenter stated that by combining the two areas, the overall complexity of the combined site is tremendously expanded and would require a regional environmental study rather than an investigation of a single waste site. The commenter disagreed with EPA's contention that the addition of the Butte area would not greatly expand the Silver Bow Creek Site.

In response, information provided by the commenter indicates that the Butte area contributes only 5% to 10% of the total site area, which is consistent with EPA's original understanding. Although the addition of the Butte area to the original Silver Bow Creek Site is likely to increase the complexity of the combined site somewhat, the fact remains that the Butte area is a source of contamination for the affected downstream areas. The Agency will review the appropriateness of various study options to determine the best approach to define the nature and extent of contamination and to develop options for remedying the problems at the site.

In addition, the commenter stated that the Agency should exclude the operating mine in Butte from CERCLA consideration. The commenter stated that the mine is currently operated and bonded under the Montana Hard Rock Mining Act, which, according to the commenter, includes regulations which address many, if not all of the same environmental issues covered by CERCLA.

In response, no provisions of CERCLA preclude EPA from exercising the authority to take response action under CERCLA in mining areas covered by state actions under the Montana Metal Mine Reclamation Act (Montana Hard Rock Mining Act). EPA intends to coordinate closely with the Montana Department of State Lands in exercising CERCLA authority in the State-permitted mining areas in order to avoid duplication of effort or inconsistent results.

A decision has also been reached on the Silver Creek Tailings Site, Park City, Utah. This site, proposed for listing on September 18, 1985 (50 FR 37950), was evaluated using information provided by the State of Utah. The Agency has determined that some of the information is not appropriate to substantiate an HRS score of 28.50 or above. In similar situations in the past, such sites have continued in proposed status until EPA could determine if the appropriate data could be obtained to substantiate an HRS score of 28.50 or above [see 48 FR

40658, September 8, 1983; 49 FR 37070, September 21, 1984; and 51 FR 21054, June 10, 1986).

In the case of Silver Creek Tailings Site, the Agency is in the process of collecting additional data to determine whether or not the site should be proposed to the NPL. However, section 118(p) of SARA specified that the site be removed from the NPL unless the Agency determines that site-specific data not used to propose this site indicate that the site meets the requirements of the HRS or any revised Hazard ranking system.

Consequently, the Silver Creek Tailings Site was removed from proposed status on October 17, 1986, the date SARA was enacted. This action does not indicate a change of the existing policy to continue to propose sites until the appropriate decision can be made.

V. Disposition of all Proposed Sites/ Federal Facility Sites

To date, EPA has proposed six major updates to the NPL (Table 2).

TABLE 2.—SUMMARY OF NPL PROPOSALS

Update No.	Date/FEDERAL REGISTER citation	Number of sites/ Federal facility sites	
		Pro-posed	Re-maining pro-posed
1	9/8/83, 48 FR 40674.....	133/0	2/0
2	10/15/84, 49 FR 40320.....	208/36	45/8
3	4/10/85, 50 FR 14115.....	26/6	6/4
4	9/18/85, 50 FR 37950.....	38/3	13/2
5	6/10/86, 51 FR 21099.....	43/2	27/2
6	1/22/87, 52 FR 2492.....	63/1	40/0
	Total.....	511/48	133/16

Of the 133 sites and 16 Federal facility sites in proposed status, 66 sites and 14 Federal facility sites are from proposed Update #1 through 4 and continue to be proposed pending resolution of issues involving the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), RCRA, and mining wastes (Table 3). These policies are explained in detail in the June 10, 1986 final rule (51 FR 21054). The remaining 67 sites, and 2 Federal facility sites from proposed Updates #5 and #6, continue to be proposed because EPA has not completed review of comments. They will be considered in future final rules.

The formal comment periods have closed for all proposed rules. Proposed Updates #1 through 4 sites are listed first in Table 3 according to categories representing policy and technical issues. Update #5 and Update #16 sites are listed at the end of Table 3.

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES

Category/site name	Location	Date of proposal
UPDATES #1-4:		
<i>Pesticide-Application:</i>		
Kunia Wells I.....	Oahu, HI.....	10/15/84
Kunia Wells II.....	Oahu, HI.....	10/15/84
Mililani Wells.....	Oahu, HI.....	10/15/84
Waiawa Shaft.....	Oahu, HI.....	10/15/84
Waipahu Wells.....	Oahu, HI.....	10/15/84
Waipio Heights Wells II.....	Oahu, HI.....	10/15/84
<i>RCRA (*Not previously identified as a RCRA site):</i>		
Motorola, Inc. (52nd Street Plant).	Phoenix, AZ.	10/15/84
Fairchild Camera & Instrument Corp. (Mountain View Plant).	Mountain View, CA.	10/15/84
Fairchild Camera & Instrument Corp. (South San Jose Plant).	South San Jose, CA.	10/15/84
FMC Corp. (Fresno Plant).	Fresno, CA.	10/15/84
Hewlett Packard.	Palo Alto, CA.	10/15/84
IBM Corp. (San Jose Plant).	San Jose, CA.	10/15/84
Lorentz Barrel & Drum Co.	San Jose, CA.	10/15/84
Marley Cooling Tower Co.	Stockton, CA.	10/15/84
Rhone-Poulenc, Inc./Zoecon Corp.	East Palo Alto, CA.	10/15/84
Signetics, Inc.....	Sunnyvale, CA.	10/15/84
Southern Pacific Transportation Co.	Roseville, CA.	10/15/84
Van Waters & Rogers, Inc.	San Jose, CA.	10/15/84
Martin Marietta (Denver Aerospace).	Waterton, CO.	09/18/85
City Industries, Inc.	Orlando, FL.	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Pratt & Whitney Aircraft/United * Technologies Corp.	West Palm Beach, FL.	09/18/85
Olin Corp (Areas 1, 2, & 4).	Augusta, GA.	09/08/83
Sheffield (U.S. Ecology, Inc.).	Sheffield, IL.	10/15/84
Firestone Industrial Products Co.	Noblesville, IN.	09/18/85
Prestolite Battery Division.	Vincennes, IN.	09/18/85
A.Y. McDonald Industries, Inc. *	Dubuque, IA.	09/18/85
Chemplex Co.....	Clinton/Calmanche, IA.	10/15/84
Frit Industries (Humboldt Plant).	Humboldt, IA.	04/10/85
John Deere (Dubuque Works).	Dubuque, IA.	09/18/85
U.S. Nameplate Co.	Mount Vernon, IA.	10/15/84
National Industrial Environmental Services.	Furley, KS...	10/15/84
Union Chemical Co., Inc.	South Hope, ME.	04/10/85
E.I. DuPont De Nemours & Co., Inc. (Montague Plant).	Montague, MI.	10/15/84
Hooker (Montague Plant).	Montague, MI.	09/18/85
Kysor Industrial Corp.	Cadillac, MI.	09/18/85
Lacks Industries, Inc.	Grand Rapids, MI.	10/15/84
Findett Corp.....	St. Charles, MO.	10/15/84
Conservation Chemical Co.	Kansas City, MO.	04/10/85
Burlington Northern Railroad (Somers Tie-Treating Plant).	Somers, MT.	10/15/84
Lindsay Manufacturing Co.	Lindsay, NE.	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Monroe Auto Equipment Co.	Cozad, NE	09/18/85
Matlack, Inc.	Woolwich Township, NJ	09/18/85
National Starch & Chemical Corp. *	Salisbury, NC	04/10/85
General Electric Co. (Coshoc-ton Plant).	Coshoc-ton, OH	10/15/84
Rohm & Haas Co. Landfill *	Bristol Township, PA	04/10/85
Culpeper Wood Preservers, Inc.	Culpeper, VA	10/15/84
IBM Corp. (Manassas Plant Spill).	Manassas, VA	10/15/84
Love's Container Service Landfill.	Buckingham County, VA	04/10/85
Mobay Chemical Corp. (New Martinsville Plant).	New Martinsville, WV	10/15/84
Mining Wastes: Olson/Neihart Reservoir.	Wasatch County, UT	10/15/84
Sharon Steel Corp. (Midvale Tailings).	Midvale, UT	10/15/84
Technical Issues: Arkwood Inc.	Omaha, AR	09/18/85
J.H. Baxter Co.	Weed, CA	10/15/84
Montrose Chemical Corp.	Torrance, CA	10/15/84
Montco Research Products, Inc.	Hollister, FL	10/15/84
H.O.D. Landfill	Antioch, IL	09/18/85
Kerr/McGee (Kress Creek/West Branch of DuPage River).	DuPage County, IL	10/15/84
Kerr-McGee (Reed-Keppeler Park).	West Chicago, IL	10/15/84
Kerr-McGee (Residential Areas).	West Chicago/DuPage County, IL	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Kerr-McGee (Sewage Treatment Plant).	West Chicago, IL	10/15/84
Michigan Disposal Service (Cork Street Landfill).	Kalamazoo, MI	10/15/84
Quail Run Mobile Manor.	Gray Summit, MO	09/08/83
Lodi Municipal Well.	Lodi, NJ	10/15/84
Warwick Landfill.	Warwick, NY	09/18/85
Brio Refining Co., Inc.	Friendswood, TX	10/15/84
Sol Lynn/Industrial Transformers.	Houston, TX	10/15/84
Federal Facility Sites:		
Anniston Army Depot (Southeast Industrial Area).	Anniston, AL	10/15/84
Rocky Flats Plant (USDOE).	Golden, CO	10/15/84
Dover Air Force Base.	Dover, DE	10/15/84
Joliet Army Ammunition Plant (Load-Assembly-Packing Area).	Joliet, IL	04/10/85
Savanna Army Depot Activity.	Savanna, IL	10/15/84
Louisiana Army Ammunition Plant.	Doyle, LA	10/15/84
Aberdeen Proving Ground (Edgewood Area).	Edgewood, MD	04/10/85
Aberdeen Proving Ground (Michaelsville Landfill).	Aberdeen, MD	04/10/85
Naval Weapons Station Earle (Site A).	Colts Neck, NJ	10/15/84
Letterkenny Army Ammunition (Property Disposal Office Area).	Franklin County, PA	04/10/85
Air Force Plant #4 (General Dynamics).	Fort Worth, TX	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Tooele Army Depot (North Area).	Tooele, UT	10/15/84
Naval Air Station Whidbey Island (Ault Field).	Whidbey Island, WA	09/18/85
Naval Air Station Whidbey Island (Seaplane).	Whidbey Island, WA	09/18/85
UPDATE #5 (Proposed 06/10/86):		
Apache Powder Co.	Benson, AZ	
Mesa Area Ground Water Contamination.	Mesa, AZ	
Tyler Refrigeration Pit.	Smyrna, DE	
Piper Aircraft Corp./Vero Beach Water & Sewer Department.	Vero Beach, FL	
Sydney Mine Sludge Ponds.	Brandon, FL	
Tri-County Landfill Co./Waste Management of Illinois, Inc.	South Elgin, IL	
Douglass Road/Uniroyal, Inc., Landfill.	Mishawaka, IN	
Southside Sanitary Landfill.	Indianapolis, IN	
Red Oak City Landfill.	Red Oak, IA	
Combustion, Inc.	Denham Springs, LA	
American Anodco, Inc.	Ionia, MI	
Folkertsma Refuse.	Grand Rapids, MI	
J&L Landfill	Rochester Hills, MI	
BioClinical Laboratories, Inc.	Bohemia, NY	
Conklin Dumps	Conklin, NY	
TRW, Inc. (Minerva Plant).	Minerva, OH	

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
CryoChem, Inc.	Worman, PA.	
Delta Quarries & Disposal, Inc./Stotler Landfill.	Antis/Logan Townships, PA.	
Eastern Diversified Metals.	Hometown, PA.	
Medley Farm Drum Dump.	Gaffney, SC.	
Rochester Property.	Travelers Rest, SC.	
Sheridan Disposal Services.	Hempstead, TX.	
Midvale Slag.....	Midvale, UT.	
Atlantic Wood Industries, Inc.	Portsmouth, VA.	
Hidden Valley Landfill (Thun Field).	Pierce County, WA.	
Old Inland Pit.....	Spokane, WA.	
Tomah Municipal Sanitary Landfill.	Tomah, WI...	
<i>Federal</i> (Proposed 06/10/86):		
Naval Air Development Center (8 Waste Areas).	Warminster Township, PA.	
Naval Undersea Warfare Engineering Station (4 Waste Areas).	Keyport, WA.	
UPDATE #6 Proposed 01/22/87) **		
RCRA Sites):		
Southern California Edison Co. (Visalia Poleyard).	Visalia, CA...	
Watkins-Johnson Co. (Stewart Division Plant).	Scotts Valley, CA.	
Nutmeg Valley Road.	Wolcott, CT.	
Chem-Solv, Inc. **	Cheswold, DE.	
Dover Gas Light Co.	Dover, DE...	

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
E.I. DuPont de Nemours & Co., Inc. (Newport Pigment Plant Landfill).	Newport, DE.	
Pigeon Point Landfill.	New Castle, DE.	
Diamond Shamrock Corp. Landfill.	Cedartown, GA.	
Mathis Brothers Landfill (South Marble Top Road).	Kensington, GA.	
Stauffer Chemical Co. (Chicago Heights Plant).	Chicago Heights, IL.	
McCarty's Bald Knob Landfill.	Mt. Vernon, IN.	
Barrels, Inc.	Lansing, MI.	
Ford Motor Co. (Sludge Lagoon).	Ypsilanti, MI.	
Metal Working Shop.	Lake Ann, MI.	
Kem-Pest Laboratories.	Cape Girardeau, MO.	
Wheeling Disposal Service Co., Inc., Landfill.	Amazonia, MO.	
Horstmann's Dump.	East Hanover, NJ.	
Islip Municipal Sanitary Landfill.	Islip, NY	
Aberdeen Pesticide Dumps.	Aberdeen, NC.	
Allied Plating, Inc. **.	Portland, OR.	
American Electronics Laboratories, Inc.	Montgomeryville, PA.	
Ametek, Inc. (Hunter Spring Division).	Hatfield, PA.	
Avco Lycoming (Williamsport Division).	Williamsport, PA.	
Commodore Semiconductor Group.	Lower Providence Township, PA.	

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Gentle Cleaners Inc./Granite Knitting Mills, Inc.	Souderton, PA.	
Hellertown Manufacturing Co.	Hellertown, PA.	
J.W. Rex Co./Allied Paint Manufacturing Co., Inc./Keystone Hydraulics.	Lansdale, PA.	
Novak Sanitary Landfill.	South Whitehall Township, PA.	
Paoli Rail Yards.	Paoli, PA.....	
River Road Landfill (Waste Management, Inc.).	Hermitage, PA.	
Salford Quarry....	Salford Township, PA.	
Spra-Fin, Inc.	North Wales, PA.	
Transicoil, Inc.	Worcester, PA.	
Sangamo-Weston, Inc./Twelve Mile Creek/Lake Hartwell PCB Contamination.	Pickens, SC.	
Mallory Capacitor Co.	Waynesboro, TN.	
Wasatch Chemical Co. (Lot 6).	Salt Lake City, UT.	
Dixie Caverns County Landfill.	Salem, VA...	
H & H, Inc., Burn Pit.	Farrington, VA.	
Rentokil, Inc. (Virginia Wood Preserving Division).	Richmond, VA.	
Saunders Supply Co.	Chuckatuck, VA.	

VI. Disposition of Sites in Today Final Rule

Final Sites With HRS Score Changes

For 15 of the 67 sites and 32 Federal facility sites promulgated today, EPA has revised the HRS scores based on its

review of comments and additional information (Table 4). Some of the

changes have placed the sites in different groups of 50 sites.

TABLE 4.—SITES WITH HRS SCORE CHANGES

State and site name	Location	HRS score	
		Proposed	Final
CA Monolithic Memories, Inc.	Sunnyvale	42.24	35.57
CA Teledyne Semiconductor	Mountain View	42.24	35.35
IL Sangamo Electric/Orchard National Wildlife Refuge (USDOI).	Carterville	59.80	43.70
MI Rockwell International Corp. (Allegan Plant).	Allegan	52.29	52.15
NJ Dayco Corp./L.E. Carpenter Co.	Warton Borough	48.12	46.13
NJ Naval Air Engineering Center (NAEC).	Lakehurst	49.48	50.53
OH Ormet Corp.	Hannibal	52.29	46.44
OR Umatilla Army Depot (Lagoons)	Hermiston	31.74	31.31
PA York County Solid Waste and Refuse Authority Landfill.	Hopewell Township	40.72	44.27
VA Defense General Supply Center	Chesterfield County	33.86	33.85
VA First Piedmont Corp. Rock Quarry (Route 719).	Pittsylvania County	37.51	30.16
WA Bangor Ordnance Disposal	Bremerton	29.82	30.42
WA Fort Lewis (Landfill No. 5)	Tacoma	42.78	33.79
WA McChord Air Force Base (Wash Rack/Treatment Area).	Tacoma	43.24	42.24
WI Hagen Farm	Stoughton	38.07	32.06

A summary of the comments received on these sites and EPA's responses are recorded in the "Support Document for the Revised National Priorities List—Final Rule #3/#4."

Name Revisions

The names of three sites and one Federal facility site promulgated in this final rule have been changed in response to information received during the comment period (Table 5). The changes are intended to reflect more accurately the location or nature of the problems at the site.

TABLE 5.—CHANGES IN SITE NAMES

Name on proposed NPL	Name on final NPL
Harris Corp./General Development Utilities, Palm Bay, FL.	Harris Corp. (Palm Bay Plant).
Robins Air Force Base Houston County, GA.	Robins Air Force Base (Landfill #4/Sludge Lagoon).
St. Augusta Sanitary Landfill/St. Cloud Dump, St. Augusta Township, MN.	St. Augusta Sanitary Landfill/Engen Dump.
First Piedmont Corp. Rock Quarry, Pittsylvania County, VA.	First Piedmont Corp. Rock Quarry (Route 719).

VII. Contents of the NPL

The NPL, with the Federal facility sites in a separate section, appears at the end of this final rule as Appendix B to the NCP. The 770 sites on the NPL are arranged according to their scores on the HRS. The NPL is presented in groups of 50 sites to emphasize that minor differences in HRS scores do not necessarily represent significantly different levels of risk. Except for the first group, the score range within the groups, as indicated in the list, is less than 4 points. EPA considers the sites within a group to have approximately the same priority for response actions. For convenience, the sites are numbered.

The 32 Federal facility sites in the separate Federal section of the NPL are arranged in groups corresponding to the groups in the NPL.

Each entry on the new NPL and Federal section contains the name of the facility and the State and city or county in which it is located.

For informational purposes, each entry is accompanied by one or more notations reflecting the status of response and cleanup activities at these sites at the time this list was prepared. Because this information may change periodically, these notations may become outdated.

Five response categories are used to designate the type of response underway. One or more categories may apply to each site. The categories are:

Federal and/or State response (R), Federal enforcement (F), State Enforcement (S), (4) Voluntary or negotiated response (V), and Category to be determined (D).

EPA indicates the status of significant Superfund-financed or private party cleanup activities underway or completed at proposed or final NPL sites. Three cleanup status codes are used. Only one is necessary to designate the status of actual cleanup activity at each site since the codes are mutually exclusive. The codes are: Implementation activities are underway for one or more operable units (I), Implementation activities are completed for one or more (but not all) operable units (O), and Implementation activities are completed for all operable units (C).

These categories and codes are explained in detail in earlier rulemakings, the most recent of which was June 10, 1986 (51 FR 21075).

The 67 new sites added to the NPL (Table 1) are incorporated into the NPL in order of their HRS score, except where EPA modified the order to reflect top priorities designated by the States, as discussed in previous rulemakings, the most recent of which was June 10, 1986 (51 FR 21075). The Lansdowne Radiation Site in Lansdowne, Pennsylvania, has an HRS score less than 28.50, and appears at the end of the list. This site was placed on the NPL because it met the requirements of § 300.66(b)(4) of the NCP as explained in Section III of this rule.

VIII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of economic implications of today's amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding 99 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis and the most recent economic analysis.

Costs

EPA has determined that this rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in this rulemaking. This action was submitted to the Office of Management and Budget for review. The major events that follow the proposed listing of a site on the NPL are a search for responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, remedial design and construction, and O&M, or the costs may be shared by EPA and the States.

The State cost share for site cleanup activities has been amended by section 104 of SARA. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State cost share is at least 50% of all response expenditures at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.
- For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial

design, remedial action, and O&M) on an average per site and total cost basis. At this time, however, there is insufficient information to determine what these costs will be as a result of the new requirements under SARA. Until such information is available, the Agency will provide costs estimates based on CERCLA prior to enactment of SARA; these estimates are presented below. EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Cost per site ¹
RI/FS.....	\$875,000
Remedial design.....	850,000
Remedial action.....	8,600,000 ²
Net present value of O&M (over 30 years) ³	3,770,000 ²

¹ 1986 U.S. dollars.

² Includes State cost share.

³ Assumes cost of O&M over 30 years, \$400,000 for the first year, and 10% discount rate.

Source: Hazardous Site Control Division, Office of Emergency and Remedial Response, U.S. EPA.

Costs of States associated with today's amendment arise from the required State cost-share of: (1) 10% of remedial action and 10% of up to 1 year of costs to ensure the remedy is operational and functional at privately-owned sites, and sites which are publicly-owned but not publicly-operated; and (2) at least 50% of the RI/RS, remedial design, remedial action, removal, if any, and first-year startup costs at publicly-operated sites. States will assume all of the cost for O&M after EPA's period of participation. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the 67 non-Federal sites added to the NPL in this amendment will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the costs to States of undertaking Federal remedial actions at all 67 non-Federal sites would be approximately \$2 billion, of which approximately \$200 million is attributable to the State O&M cost. As a result of the changes to State cost-share under SARA, however, the Agency believes that State O&M costs may actually decrease. When new cost information is available, it will be presented in future rulemakings.

Listing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs.

Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary, and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's amendment to list additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement action. Listing sites as national priority targets may also give States increased support for funding responses at particular sites.

As a result of the additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

Associated with the costs are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

IX. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The placing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA

cannot identify the potentially affected business at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the listing of these 67 sites and 32 Federal facility sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. Appendix B of Part 300 is revised to read as set forth below.

Dated: July 16, 1987.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

BILLING CODE 5560-50-M

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
Group 1 (HRS Scores 75.60 - 58.41)						
1	02	NJ	Lipari Landfill	Pitman	R F	0
2	03	DE	Tybout's Corner Landfill *	New Castle County	V R F	0
3	03	PA	Bruin Lagoon	Bruin Borough	R F	0
4	02	NJ	Helen Kramer Landfill	Mantua Township	R S	0
5	01	MA	Industri-Flex	Woburn	V R	0
6	02	NJ	Pollution Abatement Services *	Pleasantville	R F	0
7	02	NY	Pollution Abatement Services *	Oswego	R	0
8	07	IA	Lambury Site	Charles City	V F	0
9	03	DE	Army Creek Landfill	New Castle County	V R F	0
10	02	NJ	GPS/Wadison Industries	Old Bridge Township	D	0
11	01	MA	Ryan's Chemical Waste Dump	Ashland	R	0
12	02	NJ	GEMS Landfill	Gloucester Township	R S	I
13	05	MI	Berlin & Farro	Swartz Creek	V R F S	0
14	01	MA	Baird & McGuire	Holbrook	R F	0
15	02	NJ	Lone Pine Landfill	Freehold Township	V R F	0
16	01	NH	Somersworth Sanitary Landfill	Somersworth	R	0
17	05	AR	FMC Corp. (Fridley Plant)	Fridley	V F	0
18	06	AR	Vertac, Inc.	Jacksonville	V F	0
19	01	NH	Keefe Environmental Services	Epping	R S	0
20	08	MT	Silver Bow Creek/Butte Area	Silt Bow/Deer Lodge	R	0
21	08	SD	Whitewood Creek *	Whitewood	V	0
22	06	TX	French, Ltd.	Crosby	V R F F	0
23	01	NH	Sylvestre *	Nashua	R S	0
24	05	PA	Liquid Disposal, Inc.	Utica	R	0
25	03	PA	Tysons Dump	Upper Merion Twp	V R F	0
26	03	PA	McAdoo Associates *	McAdoo Borough	R	0
27	06	TX	Motco, Inc. *	La Marque	V R F	0
28	05	OH	Arcanum Iron & Metal	Darke County	R F	0
29	08	MT	East Helena Site	East Helena	V F	0
30	06	TX	Sites Disposal Pits	Crosby	R F	0
31	04	AL	Triana/Tennessee River	Limestone/Morgan	V R F	0
32	09	CA	Stringfellow *	Glenn Avon Heights	R F	0
33	01	HE	McKin Co.	Gray	R F	0
34	06	TX	Crystal Chemical Co.	Houston	R F	0
35	02	NJ	Bridgeport Rental & Oil Services	Bridgeport	R	0
36	08	CO	Sand Creek Industrial	Commerce City	R F	0
37	06	TX	Geneva Industries/Fuhrmann Energy	Houston	V F S	0
38	01	MA	W. R. Grace & Co. (Acton Plant)	Acton	V F S	0
39	05	MA	New Brighton/Ardens Hills	New Brighton	R	0
40	04	FL	Schuykill Metals Corp.	Plant City	D	0
41	04	NJ	Vineyard Chemical Co., Inc.	Vineyard	V R	0
42	02	NJ	Burnt Fly Bog	Marlboro Township	R S	0
43	05	NJ	Reilly Tar (St. Louis Park Plant) *	St. Louis Park	R F S	0
44	02	NY	Old Bethpage Landfill	Oyster Bay	V S	0
45	04	FL	Reeves SE Galvanizing Corp.	Tampa	V S	0
46	02	NJ	Sheldahl Corp.	Newfield Borough	V S	I
47	08	MT	Anaconda Co. Smelter	Anaconda	V R F S	0
48	10	WA	Western Processing Co., Inc.	Kent	V R F S	0
49	05	WI	Omega Hills North Landfill	Germantown	R S	0
50	04	FL	American Crescote (Pensacola Plt)	Pensacola	R F	0
Group 2 (HRS Scores 58.30 - 55.71, except for State top priority sites)						
51	02	NJ	Caldwell Trucking Co.	Fairfield	R S	0
52	02	NY	GE Moreau	South Glen Falls	V R F S	0
53	04	FL	Peak Oil Co./Bay Drum Co.	Tampa	R	0
54	05	OH	United Scrap Lead Co., Inc.	Troy	R	0
55	06	OK	Tar Creek (Ottawa County)	Ottawa County	R	0
56	07	KS	Cherokee County	Cherokee County	R	0
57	05	IN	Seymour Recycling Corp. *	Seymour	V R F	0
58	02	MI	Brick Township Landfill	Brick Township	V	0
59	05	NJ	Northern Plating	Madison	R	0
60	10	VA	Frontier Hard Chrome, Inc.	Radford	R	0
61	05	WI	Janesville Old Landfill	Janesville	R	0
62	04	SC	Independent Nail Co.	Beaufort	R	0

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 4 (HRS Scores 51.93 - 48.36)

151	04	NC	Martin Marietta, Soddyco, Inc.	Charlotte	V	I
152	04	FL	Zellwood Ground Water Contaminant	Zellwood	V	I
153	05	MI	Packaging Corp. of America	Filer City	V	F
154	05	MI	Muskegon Sanitary Landfill	Muskegon	V	F
155	02	NY	Hooker (S Area)	Niagara Falls	V	F
156	03	PA	Lindane Dump	Harrison Township	V	D
157	08	CO	Central City-Clear Creek	Idaho Springs	R	O
158	02	NJ	Ventron/Veliscot	Wood Ridge Borough	V	S
159	04	FL	Taylor Road Landfill	Seffner	V	S
160	01	RI	Western Sand & Gravel	Burrillville	V	S
161	04	SC	Koppers Co., Inc. (Florence Plant)	Florence	R	S
162	02	NJ	Maywood Chemical Co.	Maywood/Rochelle Pk	R	O
163	02	NJ	Nascolite Corp.	Millville	R	S
164	05	OH	Industrial Excess Landfill	Uniontown	R	S
165	06	OK	Hardee/Criner	Criner	R	I
166	05	MI	Rose Township Dump	Rose Township	R	F
167	05	MN	Waste Disposal Engineering	Andover	V	F
168	02	NY	Liberty Industrial Finishing	Farmingdale	V	S
169	02	NJ	Kin-Buc Landfill	Edison Township	V	F
170	05	IN	Waste, Inc., Landfill	Michigan City	V	F
171	05	OH	Bowers Landfill	Circleville	V	F
172	02	NJ	Ciba-Geigy Corp.	Toms River	V	F
173	05	MI	Butterworth #2 Landfill	Grand Rapids	V	F
174	02	NJ	American Cyanamid Co.	Bound Brook	V	S
175	03	PA	Helewa Landfill	North Whitehall Twp	V	F
176	02	NJ	Evan Property	Shamong Township	V	F
177	02	NY	Batavia Landfill	Batavia	V	F
178	05	MN	Boise Cascade/Onan/Medtronics	Fridley	V	S
179	01	RI	LARR, Inc.	North Smithfield	V	S
180	03	PA	Butler Mine Tunnel	Pittston	V	F
181	04	FL	NW 36th Street Landfill	Hialeah	V	F
182	02	NJ	Deiliah Road	Egg Harbor Township	R	I
183	03	PA	Mill Creek Dump	Erie	R	O
184	02	NJ	Glen Ridge Radium Site	Glen Ridge	R	O
185	02	NJ	Montclair/West Orange Radium Site	Montclair/W Orange	R	O
186	04	FL	Sixty-Second Street Dump	Tampa	R	I
187	05	MI	GCH Landfill	Utica	R	I
188	04	NC	Celanese(Shelby Fiber Operations)	Shelby	V	I
189	02	NJ	Metaltex/Aerosystems	Franklin Borough	R	I
190	05	VI	Schmalz, Inc.	Harrison	R	D
191	05	MI	Motor Wheel, Inc.	Lansing	R	D
192	02	NJ	Lang Property	Pemberton Township	R	F
193	06	TX	Stewco, Inc.	Waskom	R	F
194	02	NJ	Sharkey Landfill	Parsippany/Troy His	R	F
195	09	CA	Selma Treating Co.	Selma	R	F
196	06	LA	Cleve Reber	Sorrento	R	I
197	05	IL	Veliscot Chemical (Illinois)	Marshall	R	C
198	05	MI	Tar Lake	Mancelona Township	R	F
199	02	NY	Johnstown City Landfill	Town of Johnstown	R	D
200	04	NC	NC State U (Lot 86, Farm Unit #1)	Raleigh	R	D

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 3 (HRS Scores 55.58 - 51.94)

101	05	IL	Parsons Casket Hardware Co.	Belvidere	D	
102	05	IL	A & F Material Reclaiming, Inc.	Greenup	F	
103	03	PA	Douglasville Disposal	Douglasville	R	
104	02	NJ	Krysovsky Farm	Hillsborough	R	
105	05	MN	Koppers Coke	St. Paul	V	S
106	01	MA	Plymouth Harbor/Cannon Engring	Plymouth	V	S
107	10	ID	Bunker Hill Mining & Metallurg	Smelterville	V	S
108	02	NJ	Hudson River PCBs	Hudson River	V	S
109	02	NJ	Universal Oil Products (Chem Div)	East Rutherford	V	S
110	09	CA	Aerojet General Corp.	Rancho Cordova	V	S
111	10	PA	Com Bay, South Tacoma Channel	Tacoma	V	S
112	03	WA	Osborne Landfill	Grove City	V	S
113	08	UT	Portland Cement (Klin Dust 2 & 3)	Salt Lake City	V	S
114	01	GT	Old Southington Landfill	Southington	V	S
115	02	NY	Syosset Landfill	Oyster Bay	V	S
116	09	AZ	Nineteenth Avenue Landfill	Phoenix	V	S
117	10	OR	Teledyne Wah Chang	Albany	V	S
118	10	WA	Midway Landfill	Kent	V	S
119	02	NY	Sinclair Refinery	Wellsville	R	
120	04	AL	Mobray Engineering Co.	Greenville	R	
121	05	MI	Spiegelberg Landfill	Green Oak Township	R	
122	04	FL	Miami Drum Services	Miami	R	
123	02	NJ	Reich Farms	Pleasant Plains	R	
124	10	ID	Union Pacific Railroad Co.	Pocatello	V	D
125	02	NJ	South Brunswick Landfill	South Brunswick	V	D
126	04	AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh	V	D
127	04	FL	Kassau/Kimerling Battery	Tampa	V	D
128	05	TX	Wauconda Sand & Gravel	Wauconda	V	D
129	06	TX	Bailey Waste Disposal	Bridge City	R	
130	01	NH	Ottati & Goss/Kingston Steel Drum	Kingston	V	F
131	05	MI	Thermo-Chem, Inc.	Dalton Township	V	F
132	05	VA	Greenwood Chemical Co.	Newtown	V	F
133	02	NJ	NL Industries	Fedricktown	V	F
134	05	MN	St. Regis Paper Co.	Cass Lake	V	F
135	02	NJ	Ringwood Mines/Landfill	Ringwood Borough	V	F
136	02	FL	Whitehouse Oil Pits	Whitehouse	V	F
137	04	GA	Hercules 009 Landfill	Brunswick	R	D
138	04	GA	Hercules 009 Landfill	Hyde Park	R	D
139	02	NY	Jones Sanitation	St. Louis	V	S
140	05	MI	Veliscot Chemical (Michigan)	Deerfield Township	R	S
141	05	OH	Summit National	Niagara Falls	R	S
142	02	NY	Love Canal	Kent County	R	S
143	03	DE	Coker's Sanitation Service Lfs	Allegan	R	S
144	05	MI	Rockwell International (Allegan)	Dakota County	R	S
145	05	MN	Pine Bend Sanitary Landfill	Cananche	R	S
146	07	IA	Lawrence Todtz Farm	LaPorte	R	S
147	05	IN	Fisher-Calo	Warrington	R	S
148	04	FL	Pioneer Sand Co.	Davisburg	R	S
149	05	MI	Springfield Township Dump	Buffalo Township	V	F
150	03	PA	Hranica Landfill	Buffalo Township	V	F

Appendix B cont'd.

National Priorities List (by Rank)
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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 6 (HRS Scores 45.91 - 43.23)

251	05	IL	Pagel's Pic	Rockford	D	O
252	05	MN	U of Minnesota Rosemount Res Cent	Rosemount	S	D
253	05	MN	Freeway Sanitary Landfill	Burnsville	F	D
254	09	AZ	Litchfield Airport Area	Goodyear/Avondale	F	D
255	09	CA	Firestone Tire (Salinas Plant)	Salinas	S	O
256	02	NJ	Spence Farm	Plumstead Township	V R S	I
257	06	AR	Mid-South Wood Products	Mena	R	F
258	04	MS	Neuson Brothers/Old Reichhold	Columbia	R	O
259	09	CA	Atlas Asbestos Mine	Fresno County	R	F
260	09	CA	Coalinga Asbestos Mine	Coalinga	R	F
261	04	FL	Brown Wood Preserving	Live Oak	V R F	D
262	02	NY	Port Washington Landfill	Port Washington	R	F
263	05	IN	Columbus Old Municipal Landfill #1	Columbus	R	F
264	02	NJ	Combe Fill South Landfill	Chester Township	R	S
265	02	NJ	JIS Landfill	Jamesburg/S. Brnsweck	V F S	D
266	02	NJ	Tronic Plating Co., Inc.	Farmingdale	V	F
267	03	PA	Centre County Kepone	State College Boro	R	S
268	05	OH	Fields Brook	Ashtabula	R	F
269	01	CT	Solvents Recovery Service	Southington	R	F
270	08	CT	Woodbury Chemical Co.	Commerce City	R	S
271	02	NJ	Waldick Aerospace Devices, Inc.	Wall Township	R	S
272	01	MA	Hocomacon Pond	Westborough	R	F
273	04	NY	Distler Brickyard	West Point	R	F
274	02	NY	Ramapo Landfill	Ramapo	V R S	D
275	09	CA	Coast Wood Preserving	Ukiah	R	S
276	02	NY	South Bay Asbestos Area	Alviso	R	S
277	02	NY	Mercury Refining, Inc.	Colonie	V	S
278	04	FL	Hollingsworth Solderless Terminal	Fort Lauderdale	V R F	I
279	02	NY	Olean Well Field	Olean	V R F	I
280	04	FL	Varcol Spill	Miami	V	I
281	05	NY	Joslyn Manufacturing & Supply Co.	Brooklyn Center	V	S
282	03	PA	York County Solid Waste/Refuse Lf	Hopewell Township	V	S
283	05	WI	Spickler Landfill	Spencer	R	D
284	08	CO	Denver Radium Site	Denver	R	F
285	03	PA	Route 940 Drum Dump	Pocomo Summit	R	F
286	04	FL	Tower Chemical Co.	Clermont	R	F
287	03	PA	C & D Recycling	Foster Township	V	I
288	07	MO	Syntex Facility	Verona	R	F
289	08	MT	Hilltown Reservoir Sediments	Hilltown	R	F
290	05	NY	Arrowhead Refinery Co.	Hermantown	R	F
291	10	OR	Martin-Marletta Aluminum Co.	The Dalles	V	I
292	08	CO	Uranium (Union Carbide)	Uranium	V	D
293	02	NJ	Pajak Farm	Plumstead Township	V R S	I
294	02	NJ	Syncon Resins	South Kearny	R	S
295	05	NY	Oak Grove Sanitary Landfill	Oak Grove Township	R	S
296	09	CA	Liquid Gold Oil Corp.	Richmond	R	S
297	09	CA	Purity Oil Sales, Inc.	Malaga	R	S
298	01	NH	Tinkham Garage	Londonderry	V	F
299	04	FL	Alpha Chemical Corp.	Galloway	R	S
300	02	NJ	For Creek Farm	Howell Township	R	S

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 5 (HRS Scores 48.36 - 45.92)

201	08	CO	Lowry Landfill	Atrapahoe County	V R	O
202	03	PA	MacGill's & Gibbs/Bell Lumber	New Brighton	R S	I
203	03	PA	Hunterston Road	Strabon Township	V R F	O
204	02	NJ	Woodlawn County Landfill	Woodlawn	R	D
205	02	NJ	Combe Fill North Landfill	Mount Olive Twp	R	F
206	01	MA	Re-Solve, Inc.	Dartmouth	R F S	I
207	02	NY	Goose Farm	Plumstead Township	V R F S	O
208	04	TN	Valsicol Chem (Hardeman County)	Toone	R F S	O
209	02	NY	York Oil Co.	Moira	R F S	O
210	04	FL	Sapp Battery Salvage	Cottondale	R	O
211	04	SC	Vamchem, Inc.	Burton	V	F
212	02	NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport	R	F
213	05	WI	Master Disposal Service Landfill	Brookfield	R	F
214	07	KS	Doepke Disposal (Holliday)	Johnson County	R	F
215	02	NJ	Florence Land Recontouring Landfill	Florence Township	R	F
216	01	RI	Davis Liquid Waste	Smithfield	R	S
217	01	MA	Charles-George Reclamation Landfill	Tyngsborough	R	S
218	02	NJ	King of Prussia	Winslow Township	V R F	O
219	03	VA	Gaisman Creek	York County	V R	O
220	05	OH	Nease Chemical	Salem	V	S
221	08	OH	Eagle Mine	Minturn/Radcliff	R S	I
222	02	NJ	W. R. Grace & Co. (Wayne Plant)	Wayne Township	R S	O
223	02	NJ	Chemical Control	Elizabeth	R S	O
224	04	NC	Charles Macon Lagoon & Drum Stor	Cordova	R F	O
225	04	SC	Leonard Chemical Co., Inc.	Rock Hill	R F S	O
226	05	OH	Allied Chemical & Irontronic Coke	Irontronic	R F	I
227	05	MI	Verona Well Field	Battle Creek	R	I
228	07	MO	Lee Chemical	Liberty	R	D
229	01	CT	Beacon Heights Landfill	Beacon Falls	R	O
230	04	AL	Stauffer Chem (Cold Creek Plant)	Bucks	V	O
231	05	NY	Burlington Northern (Brainerd)	Brainerd/Baxter	V	D
232	05	MI	Torch Lake	Houghton County	V F S	D
233	01	RI	Central Landfill	Johnston	V	F
234	03	PA	Malvern TCE	Malvern	V	D
235	02	NY	Facet Enterprises, Inc.	Elmira	V	F
236	03	DE	Delaware Sand & Gravel Landfill	New Castle County	R	O
237	03	PA	MW Manufacturing	Valley Township	R	O
238	03	VA	C & R Battery Co., Inc.	Chesterfield County	R S	I
239	04	TN	Murray-Ohio Dump	Lawrenceburg	R	S
240	05	IN	Envirochem Corp.	Zionsville	V R F	O
241	05	IN	HIDCO I	Gary	V R F	O
242	05	OH	Ormat Corp.	Hannibal	V	F
243	05	OH	South Point Plant	South Point	V	I
244	04	PA	Whitmoyer Laboratories	Jackson Township	R	F
245	04	FL	Colman-Evans Wood Preserving Co.	Whitehouse	R F S	O
246	02	NJ	Dayco Corp./L. E. Carpenter Co.	Wharton Borough	V	O
247	03	PA	Shriver's Corner	Strabon Township	V R F	O
248	03	PA	Dorney Road Landfill	Upper Macungie Twp	V R	O
249	05	IN	Northeast Sanitary Landfill, Inc	Zionsville	V F S	O
250	04	FL	Florida Steel Corp.	Indiantown	V	O

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 8 (HRS Scores 41.93 - 39.71)

351	02	NJ	Monitor Devices/Intercircuits Inc	Wall Township	R	
352	02	PR	Uphorn Facility	Barceloneta	V	
353	04	CA	McColl	Fullerton	R	I
354	01	PA	Henderson Road	Upper Merion Twp	V	
355	02	NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	V	D
356	10	WA	Colbert Landfill	Colbert	V	
357	06	LA	Petro-Processors	Scottslandville	V	
358	02	NY	Applied Environmental Services	Glenwood Landing	V	S
359	02	PR	Barceloneta Landfill	Florida Aflera	R	
360	01	NH	Thibets Road	Barrington	V	
361	03	MD	Sand, Gravel & Stone	Elkton	V	
362	01	CT	Revere Textile Prints Corp.	Sterling	V	D
363	05	MI	Spartan Chemical Co.	Wyoming	V	S
364	02	NJ	Roebing Steel Co.	Florence	R	
365	03	PA	East Mount Zion	Springettsbury Twp	R	
366	04	TN	Amicola Dump	Chattanooga	V	S
367	02	NJ	Vineland State School	Vineland	R	I
368	01	MA	Groveland Wells	Groveland	V	S
369	02	NY	General Motors (Cent Foundry Div)	Hassena	V	S
370	01	NH	McColl Pig Farm	Massena	V	S
371	04	SC	SCDDI Dixiana	Raymond	R	S
372	05	MI	Roto-Finish Co., Inc.	Cayce	R	S
373	05	MI	Olmsted County Sanitary Landfill	Kalamazoo	R	S
374	07	MO	Quality Plating	Oronoco	D	
375	07	MO	Fulbright Landfill	Sikeston	D	
376	03	PA	Presque Isle	Springfield	D	
377	02	NJ	Williams Property	Erie	R	
378	02	NJ	Denzer & Schaefer X-Ray Co.	Swanton	V	S
379	02	NJ	Hercules, Inc. (Gibbstown Plant)	Edison Township	V	S
380	02	NJ	Ninth Avenue Dump	Bayville	V	S
381	05	IN	Golden Strip Septic Tank Service	Gibbstown	R	D
382	04	SC	Golden Strip Septic Tank Service	Gary	R	D
383	10	VA	Tottdahl Drums	Simpsonville	R	D
384	06	TX	Texarkana Wood Preserving Co.	Brush Prairie	R	D
385	06	AR	Gurley Pit	Texarkana	R	D
386	04	FL	Petroleum Products Corp.	Edmondson	R	
387	01	RI	Peterson/Furitan, Inc.	Pembroke Park	V	S
388	07	MD	Times Beach Site	Lincoln/Cumberland	R	D
389	05	MI	Whittaker Corp.	Times Beach	R	D
390	05	MI	Whittaker Corp.	Pleasant Plains Twp	R	S
391	05	VT	Algonquin Municipal Landfill	Minneapolis	R	S
392	05	MI	Algonquin Municipal Landfill	Algonquin	R	S
393	09	CA	Wastingshouse (Sunnyvale Plant)	St. Louis Park	S	I
394	01	CT	Kellogg-Deering Well Field	Sunnyvale	R	D
395	01	MA	Cannon Engineering Corp. (CEC)	Norwalk	R	S
396	05	NY	H. Brown Co., Inc.	Bridgewater	R	S
397	02	NY	Nepers Chemical Co., Inc.	Grand Rapids	V	D
398	02	NY	Niagara County Refuse	Maybrook	V	
399	04	FL	Sherwood Medical Industries	Wheatfield	R	D
400	04	AL	Olin Corp. (McIntosh Plant)	Deland	R	D
				McIntosh	R	D

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 7 (HRS Scores 43.19 - 42.00)

301	01	ME	Saco Tannery Waste Pits	Saco	R	
302	02	PR	Frontier Creek	Rio Abajo	V	
303	04	FL	Pickerville Road Landfill	Jacksonville	V	I
304	05	OH	Alaco Anaconda	Gasdenhuthen	V	S
305	01	MA	Iron Horse Park	Billerica	V	
306	03	PA	Palmerston Zinc Pile	Palmerston	V	
307	05	IN	Neal's Landfill (Bloomington)	Bloomington	V	
308	05	UT	Kohler Co. Landfill	Kohler	V	
309	04	AL	Interstate Lead Co. (ILCO)	Leeds	V	
310	09	AZ	Hassayampa Landfill	Hassayampa	V	
311	01	MA	Silverum Chemical Corp.	Lowell	V	
312	01	MA	Wells G&H	Lowell	V	
313	02	NJ	Chemco, Inc.	Piscataway	V	D
314	05	VT	Lauer I Sanitary Landfill	Memotone Falls	V	S
315	05	MI	Petoskey Municipal Well Field	Petoskey	V	S
316	05	MI	Union Scrap	Minneapolis	V	S
317	02	NJ	Radiation Technology, Inc.	Rockaway Township	V	S
318	02	NJ	Fair Lawn Well Field	Fair Lawn	V	S
319	05	IN	Main Street Well Field	Elkhart	V	S
320	05	IN	Lehigh/Mankato Site	Lehigh/Mankato	R	
321	10	PA	Lakewood Site	Lakewood	R	
322	03	PA	Industrial Lane	Williams Township	R	
323	05	IN	Fort Wayne Reduction Dump	Fort Wayne	R	
324	05	WI	Onaska Municipal Landfill	Onaska	R	
325	05	WI	National Presto Industries, Inc.	Eau Claire	R	
326	02	NJ	Montrose Township Landfill	Montrose Township	R	
327	02	NJ	Rockaway Borough Well Field	Rockaway Township	V	S
328	05	IN	Wayne Waste Oil	Columbia City	V	S
329	03	MD	Mid-Atlantic Wood Preservers, Inc.	Harmans	R	
330	10	PA	Pacific Hide & Fur Recycling Co.	Pocatello	R	
331	07	IA	Des Moines TCE	Des Moines	R	
332	02	MI	Beckwood/Berkley Wells	Berkley Township	V	S
333	02	PR	Vestal Water Supply Well 4-2	Vestal	V	
334	02	PR	Vega Alta Public Supply Wells	Vega Alta	V	
335	05	MI	Sturgis Municipal Wells	Sturgis	R	
336	05	MI	Washington County Landfill	Lake Elmo	R	
337	06	TX	Odessa Chromium #1	Odessa	R	
338	06	TX	Odessa Chromium #2 (Andrews Hwy)	Odessa	R	
339	07	ME	Hastings Ground Water Contamin	Hastings	R	
340	09	AZ	Indian Bend Wash Area	Scottsdale/Tupe/Phnx	V	F
341	09	CA	San Gabriel Valley (Area 1)	El Monte	R	
342	09	CA	San Gabriel Valley (Area 2)	Baldwin Park Area	R	
343	09	CA	San Fernando Valley (Area 1)	Los Angeles	R	
344	09	CA	San Fernando Valley (Area 2)	Los Angeles	R	
345	09	CA	San Fernando Valley (Area 3)	Glendale	R	
346	09	CA	T.H. Agriculture & Nutrition Co.	Pesno	R	
347	10	WA	Com Bay, Near Shore/Tide Flats	Pierce County	R	
348	05	IL	LaSalle Electric Utilities	LaSalle	R	
349	05	IL	Cross Brothers Pail (Pembroke)	Pembroke Township	R	
350	04	NC	Jadco-Hughes Facility	Belmont	R	D

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
Group 9 (HRS Scores 39.66 - 37.77)						
401	05	MI	Southwest Ottawa County Landfill	Park Township	V	S
402	02	NY	Kentucky Avenue Well Field	Horseheads	V	R
403	02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead	V	D
404	02	NJ	Asbestos Dump	Millington	V	F
405	04	KY	Lee's Lane Landfill	Louisville	V	F
406	06	AR	Frit Industries	Walnut Ridge	V	F
407	05	OH	Fulz Landfill	Jackson Township	R	P
408	04	FL	Tri-City Oil Conservationist, Inc	Tampa	R	S
409	05	OH	Coshocton Landfill	Franklin Township	R	F
410	04	TN	Arlington Blending & Packaging	Arlington	R	F
411	01	RI	Davis (GSR) Landfill	Glocester	V	S
412	03	PA	Lord-Shope Landfill	Girard Township	V	F
413	10	WA	FNC Corp. (Yakima Pit)	Yakima	V	F
414	05	WI	Northern Engraving Co.	Sparta	V	F
415	06	TX	South Cavalcade Street	Houston	V	F
416	01	MA	PSC Resources	Palmer	R	P
417	05	MI	Forest Waste Products	Otisville	R	P
418	03	PA	Drake Chemical	Lock Haven	R	F
419	01	NH	Kearsarge Metallurgical Corp.	Conway	R	F
420	04	SC	Palmetto Wood Preserving	Dixiana	R	S
421	05	IL	Petersen Sand & Gravel	Libertyville	R	F
422	05	MI	Clare Water Supply	Clare	R	F
423	03	PA	Haverco PCP	Haverford	V	R
424	03	DE	New Castle Spill	New Castle County	V	R
425	08	MT	Idaho Pole Co.	Bozeman	D	D
426	03	DE	NCR Corp. (Millsboro Plant)	Millsboro	R	D
427	05	IN	Lake Sandy Jo (M&M Landfill)	Gary	R	F
428	05	WY	Waukegan	Waukegan	R	F
429	05	MI	Chem Central	Wyoming Township	R	S
430	05	MI	Novaco Industries	Temperance	R	D
431	05	MI	Windom Dump	Windom	R	D
432	02	NJ	Jackson Township Landfill	Jackson Township	V	F
433	05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V	F
434	05	MI	K&L Avenue Landfill	Oshkosh Township	V	F
435	10	VA	Kaiser Aluminum Head Works	Mead	V	F
436	05	PA	Perham Arsenic Site	Perham	R	R
437	05	MI	Charlevoix Municipal Well	Charlevoix	R	R
438	02	NJ	Montgomery Township Housing Devel	Montgomery Township	R	I
439	02	NJ	Rocky Hill Municipal Well	Rocky Hill Borough	R	I
440	02	NJ	Cinnaminson Ground Water Contamin	Cinnaminson Township	R	I
441	02	NY	Brewster Well Field	Putnam County	R	I
442	02	NY	Vestal Water Supply Well 1-1	Vestal	R	I
443	04	PA	Bally Ground Water Contamination	Bally Borough	V	F
444	03	NC	Bypass 601 Ground Water Contamin	Concord	R	R
445	07	NE	Solid State Circuits, Inc.	Republic	R	F
446	07	NE	Waverly Ground Water Contamin	Waverly	R	F
447	09	CA	Advanced Micro Devices, Inc.	Sunnyvale	R	D
448	05	NY	Nutting Truck & Caster Co.	Faribault	R	S
449	02	NJ	U.S. Radium Corp.	Orange	R	F
450	06	TX	Highlands Acid Pit	Highlands	R	I

Group 10 (HRS Scores 37.69 - 35.65)

451	03	PA	Resin Disposal	Jefferson Borough	R	D
452	08	MT	Libby Ground Water Contamination	Libby	R	D
453	04	KY	Newport Dump	Newport	R	D
454	03	PA	Moyers Landfill	Eagleview	R	D
455	04	FL	Paranore Surplus	Mount Pleasant	R	S
456	01	NH	Savage Municipal Water Supply	Milford	R	F
457	05	MA	LaGrand Sanitary Landfill	LaGrand Township	R	F
458	03	IN	Peor Farm	Hancock County	R	F
459	03	PA	Brown's Battery Breaking	Shoemakersville	R	D
460	02	NY	SMS Instruments, Inc.	Deer Park	R	F
461	05	MI	Hedlum Industries	Oscoda	R	F
462	06	TX	United Cresooring Co.	Conroe	R	F
463	02	NY	Byron Barrel & Drum	Byron	R	F
464	08	NY	Baxter/Union Pacific Tie Treating	Laramie	V	F
465	02	NY	Anchor Chemicals	Hicksville	V	S
466	05	MI	Waste Management-Mich (Holland)	Holland	R	D
467	06	TX	North Cavalcade Street	Houston	R	D
468	01	NJ	Sayreville Landfill	Sayreville	R	D
469	01	NH	Dover Municipal Landfill	Dover	R	S
470	02	NY	Ludlow Sand & Gravel	Clayville	R	S
471	05	WI	City Disposal Corp. Landfill	Dunn	R	F
472	02	NJ	Tabernacle Drum Dump	Tabernacle Township	R	F
473	02	NJ	Cooper Road	Voorhees Township	R	F
474	07	MO	Minker/Stout/Romaine Creek	Imperial	R	S
475	04	KY	Hove Valley Landfill	Hove Valley	R	D
476	01	CT	Yavorski Waste Lagoon	Canterbury	R	S
477	03	WV	Leetown Pesticide	Leetown	R	F
478	04	FL	Cabot/Koppers	Gainesville	R	F
479	02	NJ	Evot Phillips Leasing	Old Bridge Township	R	F
480	03	PA	William Dick Lagoons	West Cain Township	R	F
481	03	PA	Wade (ABM)	Chester	R	F
482	06	OK	Lackawanna Refuse	Old Forge Borough	R	F
483	06	OK	Compass Industries (Avery Drive)	Tulsa	R	F
484	02	NJ	Hannheim Avenue Dump	Galloway Township	R	F
485	05	IN	Neal's Dump (Spencer)	Spencer	R	F
486	02	NY	Fulton Terminals	Fulton	R	F
487	06	LA	Dutchman Treatment Plant	Ascension Parish	R	D
488	03	PA	Vestinghouse Elevator Co. Plant	Gettysburg	R	F
489	01	NH	Auburn Road Landfill	Londonderry	R	F
490	03	NY	Fike Chemical, Inc.	Nitro	R	F
491	05	MA	General Mills/Henkel Corp.	Minneapolis	R	F
492	05	OH	Laskin/Poplar Oil Co.	Jefferson Township	R	F
493	05	OH	Old Mill	Rock Creek	R	F
494	07	KS	Johns' Sludge Pond	Wichita	R	F
495	05	WI	Stoughton City Landfill	Stoughton	R	D
496	09	CA	Dal Norte Pesticide Storage	Crescent City	R	F
497	02	NJ	De Reval Chemical Co.	Kingwood Township	R	F
498	03	PA	Middletown Air Field	Middletown	R	F
499	02	NJ	Slope Oil & Chemical Co.	Pennsauken	R	F
500	04	GA	Monsanto Corp. (Augusta Plant)	Augusta	R	S

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
Group 9 (HRS Scores 39.66 - 37.77)						
401	05	MI	Southwest Ottawa County Landfill	Park Township	V	S
402	02	NY	Kentucky Avenue Well Field	Horseheads	V	R
403	02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead	V	D
404	02	NJ	Asbestos Dump	Millington	V	F
405	04	KY	Lee's Lane Landfill	Louisville	V	F
406	06	AR	Frit Industries	Walnut Ridge	V	F
407	05	OH	Fulz Landfill	Jackson Township	R	P
408	04	FL	Tri-City Oil Conservationist, Inc	Tampa	R	S
409	05	OH	Coshocton Landfill	Franklin Township	R	F
410	04	TN	Arlington Blending & Packaging	Arlington	R	F
411	01	RI	Davis (GSR) Landfill	Glocester	V	S
412	03	PA	Lord-Shope Landfill	Girard Township	V	F
413	10	WA	FNC Corp. (Yakima Pit)	Yakima	V	F
414	05	WI	Northern Engraving Co.	Sparta	V	F
415	06	TX	South Cavalcade Street	Houston	V	F
416	01	MA	PSC Resources	Palmer	R	P
417	05	MI	Forest Waste Products	Otisville	R	P
418	03	PA	Drake Chemical	Lock Haven	R	F
419	01	NH	Kearsarge Metallurgical Corp.	Conway	R	F
420	04	SC	Palmetto Wood Preserving	Dixiana	R	S
421	05	IL	Petersen Sand & Gravel	Libertyville	R	F
422	05	MI	Clare Water Supply	Clare	R	F
423	03	PA	Haverco PCP	Haverford	V	R
424	03	DE	New Castle Spill	New Castle County	V	R
425	08	MT	Idaho Pole Co.	Bozeman	D	D
426	03	DE	NCR Corp. (Millsboro Plant)	Millsboro	R	D
427	05	IN	Lake Sandy Jo (M&M Landfill)	Gary	R	F
428	05	WY	Waukegan	Waukegan	R	F
429	05	MI	Chem Central	Wyoming Township	R	S
430	05	MI	Novaco Industries	Temperance	R	D
431	05	MI	Windom Dump	Windom	R	D
432	02	NJ	Jackson Township Landfill	Jackson Township	V	F
433	05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V	F
434	05	MI	K&L Avenue Landfill	Oshkosh Township	V	F
435	10	VA	Kaiser Aluminum Head Works	Mead	V	F
436	05	PA	Perham Arsenic Site	Perham	R	R
437	05	MI	Charlevoix Municipal Well	Charlevoix	R	R
438	02	NJ	Montgomery Township Housing Devel	Montgomery Township	R	I
439	02	NJ	Rocky Hill Municipal Well	Rocky Hill Borough	R	I
440	02	NJ	Cinnaminson Ground Water Contamin	Cinnaminson Township	R	I
441	02	NY	Brewster Well Field	Putnam County	R	I
442	02	NY	Vestal Water Supply Well 1-1	Vestal	R	I
443	04	PA	Bally Ground Water Contamination	Bally Borough	V	F
444	03	NC	Bypass 601 Ground Water Contamin	Concord	R	R
445	07	NE	Solid State Circuits, Inc.	Republic	R	F
446	07	NE	Waverly Ground Water Contamin	Waverly	R	F
447	09	CA	Advanced Micro Devices, Inc.	Sunnyvale	R	D
448	05	NY	Nutting Truck & Caster Co.	Faribault	R	S
449	02	NJ	U.S. Radium Corp.	Orange	R	F
450	06	TX	Highlands Acid Pit	Highlands	R	I

Appendix B cont'd.

National Priorities List (by Rank)
July 1987NPL EPA
Rank Reg St Site Name
City/County
Response
Category
Cleanup
Status

Group 12 (HRS Scores 34.68 - 33.73)

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category	Cleanup Status
551	05	MT	Duell & Gardner Landfill	Dalton Township		
552	10	VA	Mica Landfill	Mica		D
553	02	NJ	Ellis Property	Evesham Township		D
554	04	KY	Disaster Farm	Jafferson County	R F	O
555	09	CA	Waste Disposal, Inc.	Santa Fe Springs	R F	D
556	10	VA	Harbor Island (Lead)	Seattle		
557	05	VA	Lumber Transport & Recycling	Franklin Township	R	I
558	03	OH	E.H. Schilling Landfill	Marquette	R F	
559	03	NY	Cliff/Dow Dump	Town of Granby	R F	
560	02	NY	Clothes Disposal	Ambley	R F S	O
561	03	PA	Asbestos Piles	Saddle Brook Twp	V	O
562	10	WA	Queen City Farms	Spotsylvania County	R F	D
563	02	NJ	Curtis Scrap Metal, Inc.	Hedford		
564	03	VA	L.A. Clarke & Son	Hollywood	R F	O
565	05	VI	Scrap Processing Co., Inc.	Milan	R F	O
566	01	MD	Southern Maryland Wood Treating	Porterville	V F	S
567	06	NM	Houssake Mining Co.	Beckman Instruments (Porterville)		
568	09	CA	Beckman Instruments (Porterville)	Porterville	R F	D
569	04	FL	Dubose Oil Products Co.	Pete Marquette Twp	R F	S
570	05	MI	Mason County Landfill	Rose Center	R F	S
571	03	MI	Cemetery Dump	Plumstead Township		
572	02	NJ	Hopkins Farm	Fayetteville	R F	S
573	04	NC	Cape Fear Wood Preserving	North Smithfield		
574	01	RI	Scandia Mills, Inc.	Whitell		
575	05	VI	Lumber Landfill, Inc.	Indianapolis		
576	05	IN	Reilly Tar (Indianapolis Plant)	Washington		
577	01	ME	Pinette's Salvage Yard	Houston	R F	O
578	06	TX	Harris (Farley Street)	Plumstead Township	V F	C
579	02	NJ	Wilson Farm	Seven Valleys	V F	D
580	03	PA	Old City of York Landfill	Lower Windsor Twp	V F	S
581	03	PA	Modern Sanitation Landfill	Byron		
582	05	IL	Byron Salvage Yard	Bronson	R F	D
583	05	MI	North Bronson Industrial Area	King of Prussia		
584	03	PA	Stanley Kessler	Morganville	R	O
585	02	NJ	Imperial Oil/Champion Chemicals	Beverly		
586	02	NJ	Condon Chemical Coatings Corp.	St. Augusta Township		
587	05	NY	St. Augusta San Landfill/Engen Dump	Franklin Township	R	D
588	02	NJ	Myers Property	Boonton	R	O
589	02	NJ	Pepe Field	Everson	R	O
590	10	WA	Northwest Transformer	Franklin Square		
591	02	NY	Genzale Plating Co.	Sheboygan		
592	05	NY	Sheboygan Harbor & River	Ossineke		
593	05	MI	Ossineke Ground Water Contamin	Pollansbee	V F	D
594	03	WV	Follansbee Site	Union Township		
595	03	PA	Keystone Sanitation Landfill	Fayetteville	R F	O
596	04	NC	Carolina Transformer Co.	North Sea	R F	O
597	02	NY	North Sea Municipal Landfill	Bridgewater Township		
598	03	PA	Bendix Flight Systems Division	Oroville	S	N
599	03	CA	Koppers Co., Inc. (Oroville Plant)			
600	09	CA	Louisiana-Pacific Corp.			

Appendix B cont'd.

National Priorities List (by Rank)
July 1987NPL EPA
Rank Reg St Site Name
City/County
Response
Category
Cleanup
Status

Group 11 (HRS Scores 35.64 - 34.69)

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category	Cleanup Status
501	01	NH	South Municipal Water Supply Well	Peterborough		
502	01	ME	Winthrop Landfill	Winthrop	V F S	O
503	03	WV	Ordnance Works Disposal Areas	Morgantown		
504	06	AR	Cecil Lindsey	Westport	R F	I
505	05	OH	Zanesville Well Field	Zanesville	V R S	
506	02	NY	Suffern Village Well Field	Village of Suffern		
507	02	NY	Endicott Village Well Field	Village of Endicott	R	I
508	03	PA	Alcedon Plating	Scott Township	R S	O
509	04	FL	Harris Corp. (Palm Bay Plant)	Palm Bay	V R	I
510	05	NH	Kummer Sanitary Landfill	Bemidji	R	I
511	05	OH	Sanitary Landfill Co. (190)	Dayton	R	D
512	05	WI	Eau Claire Municipal Well Field	Eau Claire	R	D
513	07	MO	Valley Park TCE	Valley Park		
514	09	CA	San Fernando Valley (Area 4)	Los Angeles		
515	09	CA	Monolithic Membrane	Sunnyvale		
516	04	CA	National Semiconductor Corp.	Peach County	R F	D
517	04	CA	Grand Traverse Overall Supply Co.	Greenville	R F	D
518	05	MI	Metamora Landfill	Metamora	R	I
519	05	MI	Metamora Landfill	Metamora	R	I
520	05	MI	Metamora Landfill	Metamora	R	I
521	03	DE	Standard Chlorine of Delaware, Inc.	Delaware City	R	D
522	05	NH	South Andover Site	Andover	R F S	O
523	02	NJ	Diamond Alkali Co.	Kewark	V F	O
524	03	VA	Avoca Fibers, Inc.	Front Royal	V F	O
525	05	MI	Kentwood Landfill	Kentwood	V F	O
526	05	MI	Electrovoice	Buchanan	R	D
527	02	NY	Katonsville Municipal Well	Town of Bedford	R	D
528	09	CA	Telephony Semiconductor	Mountain View	V F	D
529	02	PR	Fibers Public Supply Wells	Jobos	V F	D
530	05	IN	Marion (Bragg) Dump	Reading	R F	I
531	05	OH	Pristine, Inc.	Cleveland Township	R	I
532	05	WI	Mid-State Disposal, Inc. Landfill	Jackson	R	O
533	04	IN	American Cresote (Jackson Plant)	Denver	V F	I
534	08	OH	Broderick Wood Products	St. Clairsville	V F	D
535	05	OH	Buckeye Reclamation	Farmington	R	O
536	02	NY	Preferred Plating Corp.	Grand Prairie	R	D
537	06	TX	Bio-Ecology Systems, Inc.	Monticello	R	I
538	08	UT	Monticello Rad Contaminated Props	Woodland Township	V R S	
539	02	NJ	Woodland Route 512 Dump	Griffith		
540	03	IN	American Chemical Service, Inc.	Salem		
541	01	MA	Salem Acres	Sidney Center	V F	D
542	02	NY	Richardson Mill Road Landfill/Pond	Springfield	V F	D
543	01	VT	Old Springfield Landfill	Lincolnton	V F	O
544	02	NY	Solvent Savers	Piney River	V F S	O
545	03	VA	U.S. Titanium	Galesburg	V F S	O
546	05	IL	Galesburg/Koppers Co.	Niagara Falls	V F S	O
547	02	NY	Hooker (Rye Park)	Huskegon Heights	V F S	O
548	05	MI	SGA Independent Landfill	Cloveland	V F S	O
549	09	CA	MGM Blakes	Bayou Sorrel		
550	06	LA	Bayou Sorrel Site			

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
Group 13 (HRS Scores 33.67 - 32.02)						
601	05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township	D	
602	05	MI	U.S. Avlex	Howard Township	V F	
603	03	PA	Walsh Landfill	Honeybrook Township	R F S	0
604	02	NJ	Landfill & Development Co.	Mount Holly	S	
605	02	NJ	Upper Deerfield Township San Lndf	Upper Deerfield Twp	R F	
606	02	NJ	Hertel Landfill	Placetekill	D	
607	02	NY	Haviland Complex	Town of Hyde Park	R	
608	02	NY	Malta Rocket Fuel Area	Malta	D	
609	05	MI	Kent City Mobile Home Park	Kent City	D	
610	05	MN	Adrian Municipal Well Field	Adrian	R	
611	06	MN	AT & SF (Clovis)	Clovis	V F	
612	07	KS	Strother Field Industrial Park	Cowley County	V S	
613	07	KS	Obese Road	Hutchinson	D	
614	02	NJ	Fried Industries	East Brunswick Twp	S	
615	02	NY	American Industries	South Cairo	V R S	0
616	04	TX	Lewisburg Dump	Lewisburg	V	
617	05	MI	McGraw Edison Corp.	Albion	V S	
618	02	NY	Goldisc Recordings, Inc.	Holbrook	V	
619	04	KY	Aircro	Calvert City	V	I
620	03	PA	Metal Banks	Philadelphia	V F	0
621	02	NY	Samney Farm	Asenita	R F	
622	01	MA	Rose Disposal Ptc	Lanesboro	R F S	
623	05	OH	Van Dale Junkyard	Lanesboro	D	
624	08	MT	Montana Pole and Treating	Butte	R	I
625	04	KY	B.F. Goodrich	Butte	I	
626	05	MI	Organic Chemicals, Inc.	Grandville	V	
627	02	NY	Volney Municipal Landfill	Grandville	V S	
628	02	NY	FMC Corp. (Dublin Road Landfill)	Town of Volney	V R S	0
629	05	VI	Tomah Fairgrounds	Town of Shelby	V S	
630	01	MA	Sullivan's Ledge	Tomah	D	
631	04	KY	Smith's Farm	New Bedford	R F	
632	02	PR	Juncos Landfill	Brooks	V R	0
633	07	KS	Big River Sand Co.	Juncos	V F	0
634	05	IN	Bennett Stone Quarry	Wichita	V R	0
635	10	WA	Pyckoff Co./Eagle Harbor	Bloomington	V F	0
636	04	FL	Munisport Landfill	Bainbridge Island	V F	
637	04	AL	Stauffer Chem (LaMoine Plant)	North Miami	F	
638	02	NJ	MGT Delisa Landfill	Axis	V	
639	06	TX	Crystal City Airport	Asbury Park	V F	
640	05	SC	Geiger (C & M Oil)	Crystal City	R	0
641	05	VI	Moss-American(Kerr-McGee Oil Co.)	Rantoules	R F	
642	05	VI	Waste Research & Reclamation Co.	Milwaukee	R F	
643	10	OR	Could, Inc.	Eau Claire	S	
644	02	NY	Corse Landfill	Portland	V	
645	05	MN	St. Louis River Site	Vii of Narrowsburg	V S	
646	05	MI	Auto Ion Chemicals, Inc.	St. Louis County	V R	I
647	05	WI	Hagen Farm	Kalamazoo	V F	0
648	04	SC	Carolawn, Inc.	Stoughton	V R F	
649	07	IA	Midwest Manufacturing/North Farm	Fort Lawn	V R F	0
650	03	PA	Barks Sand Pit	Kellogg	D	
				Longswamp Township	R	

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
Group 14 (HRS Scores 32.00 - 30.76)						
651	05	MI	Sparta Landfill	Sparta Township	S	
652	05	IL	Acme Solvent (Morristown Plant)	Morristown	V R	I
653	02	NJ	Pomona Oaks Residential Wells	Galloway Township	R	0
654	03	NY	Rove Industries Ground Water Cont	Noyack/Sag Harbor	R	0
655	03	PA	Hibbelka Auto Salvage Yard	Weisenberg Township	R	
656	04	FL	Hipps Road Landfill	Duval County	V R F	0
657	05	MN	Long Prairie Ground Water Contam	Long Prairie	R	
658	05	MN	Waite Park Wells	Waite Park	R	0
659	09	CA	Applied Materials	Santa Clara	D	
660	09	CA	Intel Magnetics	Santa Clara	D	
661	09	CA	Intel Corp. (Santa Clara III)	Santa Clara	D	
662	04	FL	Pepper Steel & Alloys, Inc.	Medley	R F	0
663	01	ME	O'Connor Co.	Augusta	V R	
664	05	MI	Oconovoc Electroplating Co. Inc	Ashippin	R	0
665	05	MI	Rasmussen's Dump	Green Oak Township	R	0
666	02	NY	Kenmark Textile Corp.	Farmingdale	V	I
667	03	PA	Westline Site	Westline	R	0
668	04	KY	Marey Flats Nuclear Disposal	Hillaboro	V R F S	
669	08	MT	Mount Industries	Columbus	D	
670	02	NY	Claramont Polychemical	Old Bethpage	V S	
671	03	OH	Powell Road Landfill	Dayton	R	I
672	03	PA	Croydon TCE	Croydon	R	
673	07	IA	Vogel Paint & Wax Co.	Orange City	S	
674	05	PA	Kurt Manufacturing Co.	Fridley	S	
675	03	MI	Revere Chemical Co.	Nockmixon Township	R	0
676	05	MI	Ionia City Landfill	Ionia	V F	I
677	06	TX	Koppers Co., Inc. (Texarkana Plt)	Texarkana	V F	
678	08	CO	Lincoln Park	Canon City	V F	
679	08	CO	Smuggler Mountain	Pitkin County	V F	I
680	05	IN	Wedgler Enterprises, Inc.	Lebanon	V F	
681	02	PR	GE Wiring Devices, Inc.	Juana Diaz	V F	
682	05	MI	Avenue "E" Ground Water Contamin	Traverse City	S	
683	05	OH	New Lyme Landfill	New Lyme	R	
684	02	NJ	Woodland Route 72 Dump	Woodland Township	V R S	D
685	02	FR	RCA Del Caribe	Barceloneta	V	
686	05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend	V R F	0
687	03	PA	Brothead Creek	Stroudsburg	D	
688	05	VI	Fadrowski Drum Disposal	Franklin	R	
689	10	OR	United Chrome Products, Inc.	Corvallis	R	
690	05	MI	Anderson Development Co.	Adrian	R	
691	05	VI	Hunts Disposal Landfill	Caledonia	D	
692	05	MI	Shiawassee River	Howell	D	
693	06	OK	Tenth Street Dump/Junkyard	Oklahoma City	R F	0
694	03	PA	Taylor Borough Dump	Taylor Borough	R F	0
695	03	DE	Harby Chemical Co.	New Castle	R F	0
696	03	DE	Harvey & Knott Drum, Inc.	Kirkwood	R F	0
697	04	TN	Galloway Pits	Galloway	R F	
698	05	OH	Big D Campground	Kingsville	R F	
699	06	AR	Midland Products	Ola/Birta	R F	
700	02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal	R F	

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 16 (HRS Scores 28.91 - 28.50, except for health-advisory sites)

751	05	WI	Wausau Ground Water Contamination	Wausau	R	0
752	02	NJ	Dover Township Well 4	Dover Township	R	0
753	02	NJ	Rockaway Township Wells	Rockaway	R	0
754	05	WI	Delavan Municipal Well #4	Delavan	S	0
755	07	MO	North-U Drive Well Contamination	Springfield	R	0
756	09	CA	San Gabriel Valley (Area 3)	Alhambra	R	0
757	09	CA	San Gabriel Valley (Area 4)	La Puente	R	0
758	10	CA	American Lake Gardens	Tacoma	R	0
759	10	WA	Greenacres Landfill	Spokane County	R	0
760	10	WA	Northside Landfill	Spokane	R	0
761	06	OK	Sand Springs Petrochemical Cplx	Sand Springs	R	0
762	06	TX	Pesses Chemical Co.	Fort Worth	R	0
763	05	MN	East Bethel Demolition Landfill	East Bethel	R	0
764	06	TX	Triangle Chemical Co.	Bridge City	R	0
765	02	NJ	PJP Landfill	Jersey City	R	0
766	03	PA	Craig Farm Drums	Parker	R	0
767	03	PA	Voorstman Farm	Upper Saucon Twp	R	0
768	05	IL	Belvidere Municipal Landfill	Belvidere	R	0
769	07	MO	Bee Gee Manufacturing Co.	Malden	R	0
770	03	PA	Lansdowne Radiation Site	Lansdowne	R	0

Number of NPL Sites: 770

* = State top priority site

1: V = Voluntary or negotiated response R = Federal and State response
F = Federal enforcement S = State enforcement
D = Category to be determined

2: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

National Priorities List,
Federal Section (by Group)
July 1987

NPL Gr ₁	St	Site Name	City/County	Response Category ₂	Cleanup Status ₃
2	TN	Milan Army Ammunition Plant	Milan	R	I
2	CO	Rocky Mountain Arsenal	Adams County	R	0
2	CA	McClellan AFB (Ground Water Cont)	Sacramento	R	0
2	MO	Weldon Spring Quarry (USDOE/Army)	St. Charles County	R	0

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category ₁	Cleanup Status ₂
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Group 15 (HRS Scores 30.75 - 28.91)

701	02	NY	BEG Trucking	Town of Vestal	D	0
702	05	WI	Tomah	Tomah	D	0
703	03	DE	Wildcat Landfill	Dover	R	0
704	05	MI	Burrows Sanitation	Hartford	R	0
705	03	PA	Bloomsburg Landfill	West Galt Township	R	0
706	03	PA	Rhinehart Tire Fire Dump	Frederick County	R	0
707	03	DE	Delaware City PVC Plant	Delaware City	R	0
708	03	MD	Limestone Road	Cumberland	R	0
709	02	NY	Hooker (102nd Street)	Niagara Falls	R	0
710	03	DE	New Castle Steel	New Castle County	R	0
711	06	PA	United Nuclear Corp.	Church Rock	R	0
712	03	PA	Reaser's Landfill	Upper Macungie Twp	R	0
713	06	AR	Industrial Waste Control	Fort Smith	R	0
714	09	CA	Celcor Chemical Works	Hooper	R	0
715	01	MA	Haverhill Municipal Landfill	Haverhill	R	0
716	04	AL	Perdido Ground Water Contamin	Perdido	R	0
717	02	NY	Marathon Battery Corp.	Cold Springs	R	0
718	04	NY	Colesville Municipal Landfill	Town of Colesville	R	0
719	04	FL	Yellow Water Road Dump	Baldwin	R	0
720	05	OH	Skinner Landfill	West Chester	R	0
721	03	VA	First Piedmont Quarry (Route 719)	Pittsylvania County	R	0
722	04	NC	Chemtronics, Inc.	Savannah	R	0
723	05	IN	MIDCO II	Gary	R	0
724	03	MD	Kane & Lombard Street Drums	Baltimore	R	0
725	07	MO	Shenandoah Stables	Moscow Mills	R	0
726	10	IA	Shaw Avenue Dump	Charles City	R	0
727	10	WA	Silver Mountain Mine	Loomis	R	0
728	06	TX	Petro-Chemical (Turtle Bayou)	Liberty County	R	0
729	05	OH	Republic Steel Corp. Quarry	Elyria	R	0
730	05	MN	Ritcarl Post & Pole	Sebeke	R	0
731	06	LA	Bayou Bonfouca	Slide	R	0
732	09	CA	Intel Corp. (Mountain View Plant)	Mountain View	R	0
733	09	CA	Raytheon Corp.	Mountain View	R	0
734	05	MN	Agate Lake Scrapyard	Fairview Township	R	0
735	06	AR	Jacksonville Municipal Landfill	Jacksonville	R	0
736	06	AR	Rogers Road Municipal Landfill	Jacksonville	R	0
737	04	VA	Saltville Waste Disposal Ponds	Saltville	R	0
738	04	SC	Palmetto Recycling, Inc.	Columbia	R	0
739	01	MA	Shack Landfill	Norton/Attleboro	R	0
740	03	PA	Kimberton Site	Kimberton Borough	R	0
741	01	MA	Norwood PCBs	Norwood	R	0
742	03	MD	Middleton Road Dump	Annapolis	R	0
743	10	WA	Pesticide Lab (Yakima)	Yakima	R	0
744	05	IN	Lenon Lane Landfill	Bloomington	R	0
745	05	IN	Tri-State Plating	Columbus	R	0
746	10	ID	Arcom (Drexler Enterprises)	Rathdrum	R	0
747	01	PA	Coakley Landfill	Northampton	R	0
748	03	PA	Fischer & Porter Co.	Warminster	R	0
749	09	CA	Jibboom Junkyard	Sacramento	R	0
750	02	NJ	A. O. Polymer	Sparta Township	R	0

Appendix B cont'd.

National Priorities List
Federal Section (by Group)
July 1987

NPL Gr.	St	Site Name	City/County	Response Category ²	Cleanup Status ³
4	GA	Robins AFB (Lndfill #4/Sludge Lag)	Houston County	R	0
4	NE	Cornhusker Army Ammunition Plant	Hall County	R	0
4	NJ	Naval Air Engineering Center	Lakehurst	R	1
4	UT	Hill Air Force Base	Ogden	R	1
6	UT	Ogden Defense Depot	Ogden	R	0
6	CA	Sacramento Army Depot	Sacramento	R	0
6	IL	Sangamo/Orchard NWR (USDOI)	Cartersville	R	0
6	ME	Brunswick Naval Air Station	Brunswick	R	0
7	WA	McChord AFB (Wash Rack/Treatment)	Tacoma	R	0
7	OK	Tinker AFB (Soldier Cr/Bldg 3001)	Oklahoma City	R	0
7	CA	Lawrence Livermore Lab (USDOE)	Livermore	R	0
7	CA	Sharpe Army Depot	Lathrop	R	0
9	CA	Norton Air Force Base	San Bernardino	R	0
9	CA	Castle Air Force Base	Merced	R	1
10	NJ	Fort Dix (Landfill Site)	Pemberton Township	R	0
10	AL	Alabama Army Ammunition Plant	Childersburg	R	0
12	PA	Letterkenny Army Depot (SE Area)	Chambersburg	R	0
12	NY	Griffiss Air Force Base	Rome	R	0
12	VA	Defense General Supply Center	Chesterfield County	R	0
12	WA	Fort Lewis (Landfill No. 5)	Tacoma	R	0
13	MN	Twin Cities Air Force (SAR Landfill)	Minneapolis	R	0
13	MO	Lake City Army Plant (WV Lagoon)	Independence	R	0
13	IL	Joliet Army Plant (Mfg Area)	Joliet	R	0
14	TX	Lone Star Army Ammunition Plant	Texarkana	R	0
14	OR	Umatilla Army Depot (Lagoons)	Hermiston	R	0
15	WA	Bangor Ordnance Disposal	Bremerton	R	0
15	CA	Moffett Naval Air Station	Sunnyvale	R	0
16	CA	Mather AFB (ACSM Disposal Site)	Sacramento	R	0
Number of NPL Federal Facility Sites:			32		

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V - Voluntary or negotiated response R - Federal and State response
F - Federal enforcement S - State enforcement
D - Category to be determined

3: 1 - Implementation activity underway one or more operable units
0 - One or more operable units completed; others may be underway
C - Implementation activity completed for all operable units

[FR Doc. 87-16679 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-C

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 300**

(FRL-3187-5)

National Priorities List for Uncontrolled Hazardous Waste Sites; Federal Facility Sites**AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is repropounding seven Federal facility sites that were previously proposed for the National Priorities List ("NPL") and proposing to expand the boundaries of an eighth Federal facility site. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), and Executive Order 12580.

These sites are being repropounded to be consistent with EPA's recently proposed policy for placing on the NPL sites located on Federally-owned facilities that may be subject to Subtitle C corrective action authorities of the Resource Conservation and Recovery Act ("RCRA") (see 52 FR 17991, May 13, 1987). This notice solicits comments on the Hazard Ranking System score for seven previously proposed Federal facility sites which include areas that are subject to RCRA corrective action authorities. In addition, EPA solicits comments on the expansion of one Federal facility site to include an area previously identified as a RCRA land disposal unit. This site is one of 32 Federal facility sites being promulgated elsewhere in today's Federal Register.

DATE: Comments may be submitted on or before August 21, 1987.

ADDRESSES: Comments may be mailed to Stephen A. Lingle, Director, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Addresses for the Headquarters and Regional dockets are provided below. For further details on what these dockets contain, see Section III of the **SUPPLEMENTAL INFORMATION** portion of this preamble.

Tina Maragousis, Headquarters, U.S. EPA CERCLA Docket Office,

Waterside Mall Subbasement, 401 M Street, SW., Washington, DC 20460, 202/382-3046

Peg Nelson, Region 1, U.S. EPA Library, Room E121, John F. Kennedy Federal Building, Boston, MA 02203, 617/565-3300

Carole Petersen, Region 2, Site Investigation and Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216

Lou Tilley, Region 5, U.S. EPA Library, 16th Floor, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022

Barry Nash, Region 6, 1445 Ross Avenue, Mail Code 6H-ES, Dallas, TX 75202-2733, 214/655-6740

Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 500, Denver, CO 80202-2405, 303/293-1444

Linda Sunned, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8082

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101, 206/442-2103

FOR FURTHER INFORMATION CONTACT:

Ann B. Sarno, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Introduction
- II. NPL Update Process
- III. Public Comment Period, Available Information
- IV. Eligibility
- V. Contents of This Proposed Rule
- VI. Regulatory Impact Analysis
- VII. Regulatory Flexibility Act Analysis

I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 41 U.S.C. 9601, *et seq.*, ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites; CERCLA was amended in 1986 with the Superfund Amendments and Reauthorization Act (SARA). To

implement CERCLA, the U.S. Environmental Protection Agency (EPA) promulgated the revised National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to section 105 of CERCLA and Executive Order 12580 (52 FR 2923, January 29, 1987). The National Contingency Plan (NCP), further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial actions tend to be long-term in nature and involve response actions that are consistent with a permanent remedy (CERCLA section 101(24)).

Section 105(8)(B) of CERCLA requires that the criteria be used to prepare a list of national priorities among the known releases throughout the United States. These criteria are included in Appendix A of the NCP, *Uncontrolled Hazardous Waste Site Ranking System: A User's Manual* (the "Hazard Ranking System" or "HRS") (47 FR 31219, July 16, 1982). The list, which is Appendix B of the NCP, is the National Priorities List ("NPL"). Section 105(8)(B) also requires that the NPL be revised at least annually. EPA proposes to include on the NPL sites at which there have been releases or threatened releases of hazardous substances, or of "pollutants or contaminants." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

Under § 300.68(a) of the NCP, a site must be on the NPL if a remedial action is to be financed by the Hazardous Substances Superfund established under SARA. Federal facility sites are eligible for the NPL pursuant to § 300.66(e)(2) of the NCP (50 FR 4793, November 20, 1985). However, CERCLA section 111(e), as amended by SARA, limits the expenditure of Fund monies at Federally-owned facilities. Federal facility sites are subject to the requirements of section 120 of SARA.

In this notice, EPA is repropounding seven Federal facility sites originally proposed for the NPL on October 15, 1984 (Update #2) or April 10, 1985

(Update #3) (see 49 FR 40320 and 50 FR 14115), and requesting comment on the expansion of an eighth Federal facility site proposed for the NPL on October 15, 1984 (49 FR 40320). This site along with 31 other Federal and 67 non-Federal sites are promulgated elsewhere in today's Federal Register. Since this rule is repropounding sites, the current number of sites proposed for, or on, the NPL does not change as a result of this action. Currently, 149 sites are proposed for the NPL and 802 sites are on the final NPL.

II. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS takes into account "pathways" to human or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS, and which are otherwise eligible, are proposed for listing. The eight sites discussed in today's rule were proposed based on HRS scores greater than 28.50.

SARA, enacted on October 17, 1986, directs EPA to revise the HRS. The Agency will continue to use the existing HRS until the revised HRS becomes effective. Sites included on the NPL prior to the effective date of the revised HRS will not be reevaluated.

The second mechanism allows States to designate a single site, regardless of its score, as the State top priority. A State top priority site will be listed on the NPL even if it does not qualify due to its score. In rare instances, EPA may utilize § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985), which allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional

Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and States offices participating in the scoring. The Agency then proposes the new sites that meet the listing requirements and solicits public comments on the proposal. Based on these comments and further EPA review, the Agency determines final scores and promulgates those sites that still meet the listing requirements.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has since been expanded (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; and 51 FR 21054, June 10, 1986). On March 7, 1986 (51 FR 7935), EPA published a notice to delete eight sites from the NPL. As of today, the number of final NPL sites is 802. Another 149 sites from previous updates remain proposed for the NPL (see 48 FR 40674, September 8, 1983; 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; 51 FR 21099, June 10, 1986; and 52 FR 2492, January 22, 1987).

III. Public Comment Period, Available Information

This Federal Register notice repropounding seven Federal facility sites for the NPL, and expanding the boundaries of an eighth Federal facility site currently on the NPL, opens the formal 30-day comment period. Comments may be mailed to Stephen A. Lingle, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC, 20460.

Documents providing EPA's justification for today's actions are available to the public in both the Headquarters public docket and in the appropriate Regional Office's public docket (see "ADDRESSES" portion of this notice).

The Headquarters public docket for this proposal contains: HRS score sheets for each site; a documentation record for each site describing the technical rationale for the HRS scores; and a list of documents referenced in the documentation record. The Headquarters public docket is located in EPA Headquarters, Waterside Mall Subbasement, 401, M Street, SW.,

Washington, DC 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of these HRS documents may be directed to the EPA Headquarters docket office.

The Regional public dockets contain HRS score sheets, documentation records, and a list of reference documents for each site in that Region. These Regional dockets also contain all documents referenced in the documentation record which contain the data EPA relied upon in calculating or evaluating the HRS scores. The reference documents are available for review only in the Regional public dockets. Interested commenters should direct requests for copies of these documents to the appropriate Regional Superfund Branch Office. Documents with some relevance to the scoring of each site, but which were not used as references, are also available in the appropriate EPA Regional office, and may be viewed and copied by arrangement with that office. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents.

A statement of EPA's information release policy, describing what information the Agency discloses in response to Freedom of Information Act requests from the public, is printed in the Federal Register at 52 FR 5578, February 25, 1987.

EPA considers all comments received during the formal comment period. Comments are placed in the Headquarters docket and, during the comment period, are available to the public only in the Headquarters docket. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week after the comment period closes. Comments received after the close of the comment period will be available in the Headquarters docket and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of these comments. After considering the comments received during the comment period, EPA will add to the NPL those sites that meet EPA's listing requirements. In past NPL rulemakings, EPA has considered comments received after the close of the comment period. EPA will continue to consider late comments, but only to the extent practicable, prior to final rulemaking.

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants or contaminants and expressly excludes some substances, such as petroleum, from its response authority. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases because other authorities can be used to achieve cleanup. Where such other authorities exist and the Federal government can undertake or enforce cleanup pursuant to a particular established program, using the NPL to determine the priority or need for response under CERCLA may not be appropriate. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly addressed, the Agency may consider placing them on the NPL.

The NPL eligibility policies of particular relevance to this proposed rule are discussed below. These policies, as well as other NPL eligibility policies, have been explained in greater detail in earlier rulemakings (51 FR 21054, June 10, 1986).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

When the initial NPL was promulgated, EPA announced certain eligibility policies relating to sites that might qualify for the NPL. One such policy was that units regulated under RCRA—i.e., land disposal units that received hazardous waste after the effective date of the RCRA land disposal regulations (48 FR 40662, September 8, 1983)—would not be included on the NPL. On June 10, 1986 (51 FR 21057), EPA announced several components of a revised policy for placing non-Federal RCRA-related sites on the NPL. This policy was developed as a result of authorities enacted in the Hazardous and Solid Waste Amendments of 1984, which expanded RCRA's authority to enforce cleanup. The Agency stated that, in general, it would defer listing non-Federal sites with releases that can be addressed under the expanded RCRA Subtitle C corrective action authorities. However, the policy states that RCRA sites which fall into one of the following categories would remain eligible for the NPL:

- (1) Facilities owned by persons who are bankrupt;
- (2) Facilities whose owners/operators have lost interim status under RCRA and there are indications that the owners/operators will be unwilling to undertake corrective action;
- (3) Facilities whose owners/operators, determined on a case-by-case basis,

have shown an unwillingness to undertake corrective action.

On June 10, 1986 (51 FR 21059), EPA announced that it would consider whether this policy should be applied to Federal facilities in the future.

Federal Facility Releases

CERCLA section 111(e)(3) limits the expenditures of Fund monies for remedial actions at Federally-owned facilities. However CERCLA, as amended by SARA, requires that Federal facilities be subject to, and comply with, the Act in the same manner as any non-governmental facility. Section 120(a) of SARA provides that:

All guidelines, rules, regulations, and criteria which are applicable to . . . inclusion on the National Priorities List . . . shall also be applicable to facilities which are owned or operated by a department, agency, or instrumentality of the United States in the same manner and to the extent as such guidelines, rules, regulations, and criteria are applicable to other facilities.

Section 120 of SARA also contains requirements for assessing releases at Federal facilities, placing them on the NPL, and effecting remedial actions at those sites that qualify for the NPL.

The Agency considered the effects of applying the non-Federal RCRA policy discussed above to Federal facility sites and determined that a separate policy should be adopted. The majority of Federal facility sites that would be considered for the NPL have RCRA operating units within the Federal facility property boundary. Therefore, applying the current non-Federal RCRA policy to Federal facilities would result in placing very few Federal facility sites on the NPL. Given that Congress anticipated that Federal facility sites would be placed on the NPL, EPA interprets the provisions of section 120 to mean that the criteria to list Federal facility sites should not be more exclusionary than the criteria to list non-Federal sites. In addition, the Agency believes that placing Federal facility sites on the NPL informs the public of potential hazards and Federal government cleanup efforts.

On May 13, 1987 (52 FR 17991), the Agency proposed that Federal facility sites that may be subject to the corrective action authorities of Subtitle C of RCRA be eligible for the NPL (see the *Federal Register* for more details on the development of this policy). The Agency stated that placing these sites on the NPL does not, however, restrict the use of either RCRA corrective action or enforcement authorities to achieve cleanup at Federal facilities. EPA is in the process of developing regulations for

corrective action under RCRA and for cleanup of Superfund sites under the NCP. The cleanup goals established in those regulations will be consistent with each other, within the limits of each statute, and it is EPA's expectation that remedies selected and implemented under CERCLA will generally satisfy the RCRA corrective action requirements, and vice versa.

Federal facility sites are placed in a separate section of the NPL. Currently, 32 Federal facility sites are on, and 16 are proposed for, the NPL.

V. Contents of This Proposed Rule

The seven Federal facility sites being repropoed today were originally proposed for the NPL on October 15, 1984 or April 10, 1985. At that time, the Agency's policy was to include only non-regulated land disposal units in the area scored by the HRS when there were RCRA-regulated units located elsewhere on the Federal facility. The Agency has since determined that the HRS scores for these seven Federal facility sites include areas that are regulated under RCRA. As a result of the recently proposed policy for placing Federal facility sites that may be subject to RCRA Subtitle C corrective action authorities on the NPL, the Agency has decided to retain the RCRA units in the HRS score for those sites. This is consistent with the proposed policy. The HRS documents for these sites are available for review in the public docket (see Section III, Public Comment Period, Available Information). Five Federal facility sites being repropoed were first proposed on October 15, 1984:

- Anniston Army Depot (Southeast Industrial Area), Anniston, Alabama
- Dover Air Force Base, Dover, Delaware
- Savanna Army Depot Activity, Savanna, Illinois
- Louisiana Army Ammunition Plant, Doyline, Louisiana
- Air Force Plant #4 (General Dynamics), Fort Worth, Texas

Two were first proposed on April 10, 1985:

- Joliet Army Ammunition Plant (Load-Assembly-Packing Area), Joliet, Illinois
- Letterkenny Army Depot (Property Disposal Office), Franklin County, Pennsylvania

The Federal facilities listing policy on which this repropoal is based is currently proposed. The Agency will consider the comments submitted on the proposed policy, along with the comments submitted on this repropoal,

before placing these Federal facility sites on the NPL.

The eighth Federal facility site discussed in today's proposed rule is the Rocky Mountain Arsenal (RMA) site in Adams County, Colorado. This site was proposed for the NPL on October 15, 1984 (49 FR 40336), and is promulgated elsewhere in today's *Federal Register*. In this rule, the Agency is proposing to expand the RMA site to include a surface impoundment known as Basin F. Basin F is an approximately 93-acre asphalt-lined lagoon located in the northern half of Section 26 of RMA, and includes all associated liquid, sludge, overburden, liner, soils, and groundwater found within the Basin F fenced area.

EPA omitted Basin F from the HRS score in the earlier proposal because the Agency believed that Basin F received hazardous waste after the effective date of the RCRA Subtitle C land disposal regulations. Consistent with the September 8, 1983 policy (to list only non-regulated units), the Agency is now proposing to add Basin F to the NPL site for the following reasons: (1) The Agency learned that Basin F did not, in fact, receive hazardous waste after the effective date of the RCRA land disposal regulations, and (2) a significant portion of the plume of groundwater contamination to which Basin F contributes appears to come from "non-regulated" units at RMA (48 FR 40674, September 8, 1983). The Agency also believes that Basin F would be appropriately included as part of the RMA site under the new policy recently proposed for RCRA-regulated Federal facilities.

EPA is soliciting comments on this proposal to add Basin F to the RMA NPL site. (The HRS documentation package for RMA, including Basin F, is available in the public docket. EPA will only consider comments pertaining to the Basin F expansion. The remainder of the site is promulgated elsewhere in today's *Federal Register*).

VI. Regulatory Impact Analysis

EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. In addition, today's proposed rule involves only Federally-owned sites, and section 111(e)(3) of CERCLA prohibits use of the Fund for remedial actions at Federally-owned facilities. In addition, since these sites were previously proposed for the NPL, no additional costs are incurred by today's rulemaking. This action was submitted to the Office of Management and Budget for review.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small

businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. In today's proposed rule, only Federally-owned facilities are affected. Therefore, this proposal will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 300

Air pollution, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

It is proposed to amend 40 CFR Part 300 as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. It is proposed to add the following sites by Group, to Appendix B of Part 300.

Note.—In proposed rules, the number in the left column corresponds to the Group number in Appendix B.

Jack W. McGraw,

Deputy Assistant Administration, Office of Solid Waste and Emergency Response.

July 16, 1987.

BILLING CODE 6560-50-M

National Priorities List,
Federal Facilities Sites, Proposed July 1987
(By Group)

NPL Gr ¹	St	Site Name	City/County	Response Category ²	Cleanup Status ³
3	AL	Anniston Army Depot (SE Ind Area)	Anniston	R	O
7	IL	Savanna Army Depot Activity	Savanna	R	
8	TX	Air Force Plant #4 (Gen Dynamics)	Fort Worth	R	O
9	PA	Letterkenny Army Depot (PDO Area)	Franklin County	R	
10	DE	Dover Air Force Base	Dover	R	I
10	IL	Joliet Army Ammu Plant (LAP Area)	Joliet	R	
14	LA	Louisiana Army Ammunition Plant	Doyline	R	

Number of Federal Facilities Sites Proposed for Listing: 7

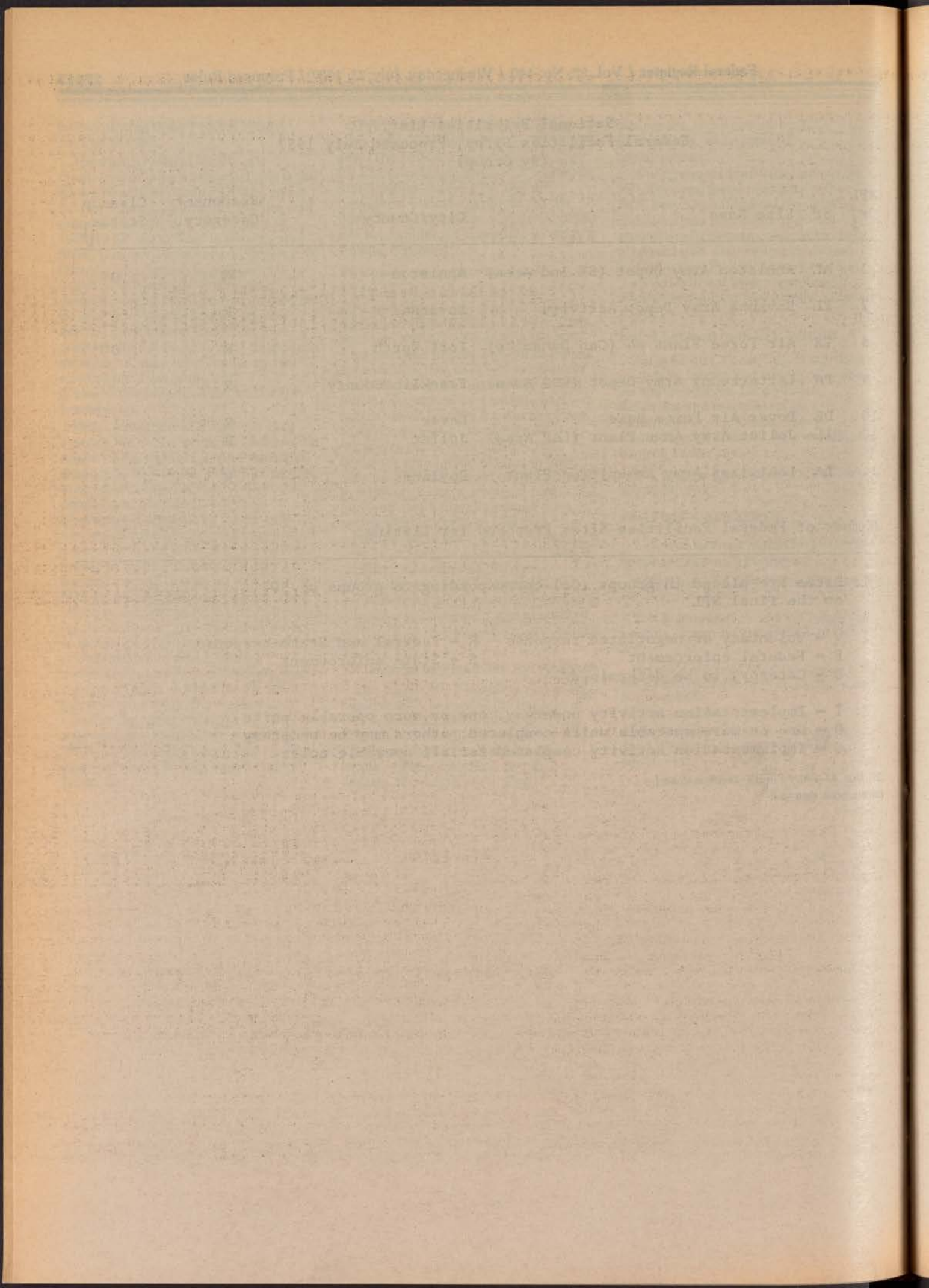
1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V - Voluntary or negotiated response R - Federal and State response
F - Federal enforcement S - State enforcement
D - Category to be determined

3: I - Implementation activity underway, one or more operable units
O - One or more operable units completed; others may be underway
C - Implementation activity completed for all operable units

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BILLING CODE 6560-50-C



Estimate Federal Paper

Wednesday
July 22, 1987

Part IV

Department of Education

34 CFR Part 33

Program Fraud Civil Remedies Act
Regulations; Notice of Proposed
Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 33

Program Fraud Civil Remedies Act Regulations

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes new regulations implementing the Program Fraud Civil Remedies Act of 1986 ("PFCRA"). The PFCRA requires the Secretary to issue implementing regulations. The proposed regulations provide in detail what types of fraud and false statement are covered by the PFCRA, and the procedures the Department of Education will use to enforce the PFCRA.

DATE: Comments must be received on or before August 21, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Sarah L. Kemble, Office of the General Counsel, U.S. Department of Education, Room 4121, 400 Maryland Avenue, SW., Washington, DC, 20202.

FOR FURTHER INFORMATION CONTACT: Sarah L. Kemble, (202) 732-2730.

SUPPLEMENTARY INFORMATION:**(a) Legislative Background**

The PFCRA reflects Congressional concern about the large number of unchecked false and fraudulent claims and statements which collectively are causing a substantial loss of Federal funds, and threatening the integrity of Federal programs. It has been practical for the Federal Government to prosecute all these cases through the Federal court system under the applicable pre-existing Federal civil and criminal statutes. This is because it costs the Government more to prosecute the smaller cases in the courts than the Government can recover in criminal and civil penalties. The PFCRA is meant to remedy this situation. It does not create new types of violations, but instead provides for administrative rather than judicial enforcement of the smaller cases, which is not as costly or time consuming.

(b) Violations Covered by PFCRA

The PFCRA statute generally encompasses false or fraudulent claims and statements made by a "person" (as defined) to a Federal agency or a fiscal intermediary of that agency. (A false statement is one accompanied by an express certification or affirmation of its truthfulness. Examples are: a statement on an application for Federal employment or assistance, or on a security clearance form). The statute

does not cover any claim or "related group of claims submitted at the same time" for money, property or services in excess of \$150,000. A "person" subject to the PFCRA may be an individual, or a corporation or other public or private organization as defined in section 33.2 of these proposed regulations.

(c) Civil Penalties and Assessment

For each false or fraudulent claim, a Federal agency may impose a penalty of up to \$5000, and an assessment of up to twice the amount of the claim in violation. The agency may enforce a penalty of up to \$5000 for each false statement.

(d) Enforcement Procedure

The Education Department Inspector General investigates suspected violations. Cases are then screened by an agency "reviewing official" who is independent of the Inspector General. After approval of the U.S. Attorney General, the reviewing official refers the case to an impartial administrative law judge for disposition (that is, default judgment, or, in a contested case, a hearing). To ensure due process, the statute and regulations contain detailed provisions on notice and hearing procedure. A person determined by an administrative law judge to be liable for a civil penalty may appeal that decision directly to the Secretary of Education, and may appeal an adverse decision of the Secretary of Education through the Federal court system. The agency is authorized to settle or compromise a case after it has been approved by the U.S. Attorney General for referral to an administrative law judge and before the agency's final decision.

(e) Importance of Consistent Federal Implementation

Since most PFCRA provisions are common to the Federal agencies affected by the statute, development of PFCRA regulations by affected Federal agencies is being coordinated so as to ensure consistency of implementation throughout the Federal Government. Therefore most of these proposed regulations will be similar or identical to regulations being issued by other Federal agencies. The only provisions of these regulations which are considered to be within the discretion of this agency are in the § 33.2 definitions (designation of the Education Department General Counsel as agency "reviewing official" and the requirements that only an attorney may be a "representative" for a party in an agency proceeding).

(f) Significant Interpretations

The following sections of these proposed regulations adopt the governing statute with little or no interpretation: Sections 33.3 (Basis for civil penalties and assessments); 33.5 (Review by reviewing official); 33.6 (Prerequisites for issuing a complaint); 33.14 (a) and (b) (Separation of functions); 33.15 (Ex parte contacts (based on the Administrative Procedure Act)); 33.16 (Disqualification of reviewing official or administrative law judge); 33.40 (Stays ordered by the Department of Justice); 33.46 (Settlement).

The following sections contain significant executive branch interpretation of the governing statute:

Section 33.2 Definitions: "Person." This section has elaborated on the statutory definition of "person" to include a State, political subdivision of a State, municipality, county, district, and Indian tribe.

Section 33.2 Definitions: "Representative." The statute provides that a person charged with a violation has the right to be represented before the agency. As noted above, this section provides that such a representative must be an attorney.

Section 33.4 Investigation. This section provides that an investigating official (the Inspector General) must refer a case to the reviewing official only when he concludes that an action under the PFCRA is warranted.

Section 33.10 Default upon failure to answer. This section provides that a defendant's failure to respond timely to an agency notice of violation will, except in extraordinary circumstances, result in imposition by an administrative law judge of the statutory maximum penalty and assessment.

Section 33.20 Disclosure of documents. The statute requires agency disclosure of certain types of documents to the defendant. This section provides that the resolution of any dispute over access to particular documents must await referral to the administrative law judge.

Section 33.21 Discovery. The statute provides for such discovery as the administrative law judge determines is necessary for a fair and expeditious hearing. This section has provisions intended to prevent abuse of the discovery process.

Section 33.30 The Hearing and burden of proof. This section proposes rules on burden of proof at an agency hearing.

Section 33.31 Determining the amount of penalties and assessments. Under the PFCRA, an administrative law judge has

discretion in setting the amount of penalty and assessment at less than the statutory maximum. This section provides a non-exclusive list of aggravating and mitigating factors to be considered by the judge in exercising that discretion.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established by that order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant impact on a substantial number of small entities. The regulation implements a law enforcement procedure affecting only those entities who are reasonably suspected of fraud.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4121, 400 Maryland Avenue SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 for reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 33

Administrative practice and procedure, Fraud, Investigations, Law enforcement, Lawyers, Penalties.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: July 17, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 33 to read as follows:

PART 33—PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

- Sec.
33.1 Basis and purpose.
33.2 Definitions.
33.3 Basis for civil penalties and assessments.

- Sec.
33.4 Investigation.
33.5 Review by the reviewing official.
33.6 Prerequisites for issuing a complaint.
33.7 Complaint.
33.8 Service of complaint.
33.9 Answer.
33.10 Default upon failure to file an answer.
33.11 Referral of complaint and answer to the ALJ.
33.12 Notice of hearing.
33.13 Parties to the hearing.
33.14 Separation of functions.
33.15 Ex parte contacts.
33.16 Disqualification of reviewing official or ALJ.
33.17 Rights of parties.
33.18 Authority of the ALJ.
33.19 Prehearing conferences.
33.20 Disclosure of documents.
33.21 Discovery.
33.22 Exchange of witness lists, statements, and exhibits.
33.23 Subpoenas for attendance at hearing.
33.24 Protective order.
33.25 Fees.
33.26 Form, filing and service of papers.
33.27 Computation of time.
33.28 Motions.
33.29 Sanctions.
33.30 The hearing and burden of proof.
33.31 Determining the amount of penalties and assessments.
33.32 Location of hearing.
33.33 Witnesses.
33.34 Evidence.
33.35 The record.
33.36 Post-hearing briefs.
33.37 Initial decision.
33.38 Reconsideration of initial decision.
33.39 Appeal to Department head.
33.40 Stays ordered by the Department of Justice.
33.41 Stay pending appeal.
33.42 Judicial review.
33.43 Collection of civil penalties and assessments.
33.44 Right to administrative offset.
33.45 Deposit in Treasury of United States.
33.46 Compromise or settlement.
33.47 Limitations.

Authority: 31 U.S.C. 3801-3812, unless otherwise noted.

§ 33.1 Basis and purposes.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, 6101 through 6104, 100 Stat. 16674 (October 21, 1986), to be codified at 31 U.S.C. 3801 through 3812. 31 U.S.C. 3809 requires each Federal department head to promulgate regulations necessary to implement the provisions of the statute.

(Authority: 31 U.S.C. 3809)

(b) *Purpose.* This part—

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written

statements to the Department or to its agents; and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for those penalties and assessments.

(Authority: 31 U.S.C. 3809)

§ 33.2 Definitions.

As used in this part:

"ALJ" means Administrative Law Judge in the Department appointed pursuant to 5 U.S.C. 3105 or detailed to the Department pursuant to 5 U.S.C. 3344.

(Authority: 31 U.S.C. 3801(a)(7)(A))

"Benefits" means, except as the context otherwise requires, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(Authority: 31 U.S.C. 3809)

"Claim" means any request, demand, or submission—

(a) Made to the Department for property, services, or money (including money representing grants, cooperative agreements, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the Department or to a party to a contract or agreement with the Department—

(1) For property or services if the United States—

(i) Provided the property or services;

(ii) Provided any portion of the funds for the purchase of the property or services; or

(iii) Will reimburse the recipient or party for the purchase of the property or services; or

(2) For the payment of money (including money representing grants, cooperative agreements, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse the recipient or party for any portion of the money paid on that request or demand;

(iii) Will guarantee or reinsure any portion of a loan made by the party; or

(c) Made to the Department which has the effect of decreasing an obligation to pay or account for property, services, or money.

(Authority: 31 U.S.C. 3801(a)(3))

"Complaint" means the administrative complaint served by the reviewing official on the defendant under § 33.7

(Authority: 31 U.S.C. 3809)

"Defendant" means any person alleged in a complaint under § 33.7 to be liable for a civil penalty or assessment under § 33.3.

(Authority: 31 U.S.C. 3809)

"Department" means the United States Department of Education.

(Authority: 31 U.S.C. 3809)

"Department head" means the Secretary or Under Secretary of the United States Department of Education.

(Authority: 31 U.S.C. 3801(a)(2))

"Government" means the United States Government.

(Authority: 31 U.S.C. 3809)

"Individual" means a natural person.

(Authority: 31 U.S.C. 3809)

"Initial decision" means the written decision of the ALJ required by § 33.10 or § 33.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(Authority: 31 U.S.C. 3803(h))

"Investigating official" means the Inspector General of the Department or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for Grade GS-16 under the General Schedule.

(Authority: 31 U.S.C. 3801(4)(A)(i))

"Knows or has reason to know," means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

(Authority: 31 U.S.C. 3801(5))

"Makes" includes the terms presents, submits, and causes to be made, presented, or submitted.

(Authority: 31 U.S.C. 3802(a))

"Person" means any individual, partnership, corporation, association, private organization, State, political subdivision of a State, municipality, county, district, and Indian tribe.

(Authority: 31 U.S.C. 3801(a)(6))

"Representative" means an attorney who is a member in good standing of the bar of any State, territory, possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(Authority: 31 U.S.C. 3803(g)(2)(F))

"Reviewing official" means the General Counsel of the Department or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official; and

(b) Not employed in the organizational unit of the Department in which the investigating official is employed.

(Authority: 31 U.S.C. 3801(8))

"Statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, cooperative agreement, loan, or benefit from;

the Department, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under the contract or for the grant, loan, cooperative agreement, or benefit, or if the Government will reimburse or reinsure the State, political subdivision, or party for any portion of the money or property under the contract or for the grant, cooperative agreement, loan, or benefit.

(Authority: 31 U.S.C. 3801(9))

§ 33.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each claim.

(2) Each voucher, invoice, claim form,

or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the Department, a recipient, or party when that claim is a actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the Department or a recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether the property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of that claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. The assessment is in lieu of damages sustained by the Government because of that claim.

(Authority: 31 U.S.C. 3802(a)(1))

(b) *Statements.* (1) Any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in the statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the Department when the statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the Department.

(Authority: 31 U.S.C. 3802(a)(2))

(c) No proof of specific intent to defraud is required to establish liability under this section.

(Authority: 31 U.S.C. 3801(5))

(d) In any case in which it is determined that more than one person is

liable for making a claim or statement under this section, each of those persons may be held liable for a civil penalty under this section.

(Authority: 31 U.S.C. 3802(a))

(e) In any case in which it is determined that more than one person is liable for making a claim under this section of which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any of those persons or jointly and severally against any of those persons.

(Authority: 31 U.S.C. 3802(a)(1); 3809)

§ 33.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3604(a) is warranted—

(1) The subpoena so issued must notify the person to whom it is addressed of the authority under which the subpoena is issued and must identify the records or documents sought;

(2) He or she may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving the subpoena is required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that the documents are not available and the reasons therefor, or that the documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(Authority: 31 U.S.C. 3804(a))

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of the investigation to the reviewing official.

(Authority: 31 U.S.C. 3803(a)(1))

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit that official's discretion to defer or postpone a report or referral to avoid interference with a criminal investigation or prosecution.

(Authority: 31 U.S.C. 3809)

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

(Authority: 31 U.S.C. 3803(a)(1))

§ 33.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 33.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 33.3 of this part, the reviewing official transmits to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 33.7.

(b) The notice must include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 33.3;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

(Authority: 31 U.S.C. 3803(a)(2); 3809(2))

§ 33.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 33.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 33.3(a) with respect to a claim, the reviewing official determines that, with respect to that claim or a group of related claims submitted at the same time the claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of 3(a) does not exceed \$150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, cooperative agreement, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single

complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

(Authority: 31 U.S.C. 3803 (b), (c))

§ 33.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 33.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

(Authority: 31 U.S.C. 3803(a))

§ 33.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgment of the defendant or his representative.

(Authority: 31 U.S.C. 3802(d))

§ 33.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer is deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(Authority: 31 U.S.C. 3803(d)(2), 3809)

§ 33.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 33.8(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 33.8, a notice that an initial decision will be issued under this section.

(c) If the defendant fails to answer, the ALJ shall assume the facts alleged in the complaint to be true and, if such facts establish liability under § 33.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 33.38.

(h) The defendant may appeal to the Department head the decision denying a motion to reopen by filing a notice of appeal with the Department head within 15 days after the ALJ denies the motion.

The timely filing of a notice of appeal shall stay the initial decision until the Department head decides the issue.

(i) If the defendant files a timely notice of appeal with the Department head, the ALJ shall forward the record of the proceeding to the Department head.

(j) The Department head decides expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the Department head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the Department head remands the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the Department head decides that the defendant's failure to file a timely answer is not excused, the Department head reinstates the initial decision of the ALJ, which becomes final and binding upon the parties 30 days after the Department head issues that decision.

(Authority: 31 U.S.C. 3809)

§ 33.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ. (Authority: 31 U.S.C. 3803(d)(2); 3809)

§ 33.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 33.8. At the same time, the ALJ shall send a copy of the notice to the representative for the Government.

(b) The notice must include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

(Authority: 31 U.S.C. 3803(g)(2)(A))

§ 33.13 Parties to the hearing.

(a) The parties to the hearing are the defendant and the Department.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these

proceedings to the extent authorized by the provisions of that Act.

(Authority: 31 U.S.C. 3803(g)(2))

§ 33.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the Department who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the Department head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ may not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the Department, including in the offices of either the investigating official or the reviewing official.

(Authority: 31 U.S.C. 3809(1)(2))

§ 33.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) may communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

(Authority: 31 U.S.C. 3803(g)(1)(A))

§ 33.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. That motion must be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) The motion and affidavit must be filed promptly upon the party's discovery of reasons requiring disqualification, or the objections are deemed waived.

(d) The affidavit must state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of those facts. It must be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of the motion and affidavit, the ALJ shall not proceed further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case must be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the Department head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

(Authority: 31 U.S.C. 3803(g)(2)(G))

§ 33.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative as defined in § 33.2;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

(Authority: 31 U.S.C. 3803(g)(2)(E), (F), (3)(B)(ii))

§ 33.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to decide upon the validity of Federal statutes or regulations.

(Authority: 31 U.S.C. 3803(g))

§ 33.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations, admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

(Authority: 31 U.S.C. 3803(g))

§ 33.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may

review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 33.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplications, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 33.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 33.9.

(Authority: 31 U.S.C. 3803(g)(3)(B)(ii), 3803(e))

§ 33.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 33.22 and 33.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 33.24.

(3) The ALJ may grant a motion for discovery only if he finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonableness of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 33.24.

(Authority: 31 U.S.C. 3802(a)(3)(B)(ii)(e))

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 33.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

(Authority: 31 U.S.C. 3803(g)(3)(B)(ii))

§ 33.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 33.33(b). At the time the above documents are exchanged, any party that is permitted by the ALJ to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, shall provide each party with a copy of the specific pages of such transcript it intends to introduce.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section are deemed to be authentic for the purpose of admissibility at the hearing.

(Authority: 31 U.S.C. 3803(g)(2))

§ 33.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. The request must specify any documents to be produced and must designate the witnesses and describe their address and location with sufficient particularity to permit the witnesses to be found.

(d) The subpoena must specify the time and place at which a witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 33.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

(Authority: 31 U.S.C. 3804(b))

§ 33.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may take any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That the discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That the trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelope to be opened as directed by the ALJ.

(Authority: 31 U.S.C. 3803(g)(3)(B)(ii))

§ 33.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

(Authority: 31 U.S.C. 3804(b))

§ 33.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting for the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date or mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a

party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

(Authority: 31 U.S.C. 3803(b)(3)(A))

§ 33.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and include the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government shall be excluded from the computation.

(c) If a document has been served or issued by mail, an additional five days is added to the time permitted for any response.

(Authority: 31 U.S.C. 3809)

§ 33.28 Motions.

(a) Any application to the ALJ for an order or ruling must be by motion. Motions must state the relief sought, the authority relied upon, and the facts alleged, and must be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions must be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to the motion.

(d) The ALJ may not grant a written motion before the time for filing responses to the motion has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny the motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

(Authority: 31 U.S.C. 3803(g)(3)(A))

§ 33.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section must reasonably relate to the severity and nature of the failure or misconduct.

(c) If a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with the order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

(Authority: 31 U.S.C. 3803(g)(2))

§ 33.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 33.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The Department shall provide defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall provide any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing must be open to the public unless otherwise ordered by the ALJ for good cause shown.

(Authority: 31 U.S.C. 3803(f), (g)(2))

§ 33.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the Department head, upon appeal, evaluate

any circumstances that mitigate or aggravate the violation and articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating fraudulent conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty is imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the Department head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements.

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the Department head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

(Authority: 31 U.S.C. 3803(a)(2)(e), (f))

§ 33.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

(Authority: 31 U.S.C. 3803(g)(4))

§ 33.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 33.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth,

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may

be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

(Authority: 31 U.S.C. 3803(g)(2)(E); 3809)

§ 33.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 33.24.

(Authority: 31 U.S.C. 3803(f)(g)(2)(E))

§ 33.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(Authority: 31 U.S.C. 3803(f))

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the Department head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 33.24.

(Authority: 5 U.S.C. App. 2, 11)

§ 33.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing these briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. The briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

(Authority: 31 U.S.C. 3803(g)(1)(2)(E))

§ 33.37 Initial decision.

(a) The ALJ shall issue an initial decision, based only on the record, that contains findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact must include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 33.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 33.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the Department head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the

parties of the reasons for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the Department head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the Department head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

(Authority: 31 U.S.C. 3803(h)(i))

§ 33.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt is presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every motion under paragraph (a) of this section must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. The motion must be accompanied by a supporting brief.

(c) Responses to the motion are allowed only upon request to the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the Department head contained in § 33.39, and for finality of the initial decision in § 33.37(d), shall begin on the date the ALJ issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

(Authority: 31 U.S.C. 3809)

§ 33.39 Appeal to Department head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the Department head in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 33.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The Department head may extend the initial 30-day period for an

additional 30 days if the defendant files with the Department head a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the Department head, the ALJ shall forward the record of the proceeding to the Department head.

(d) A notice of appeal must be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the Department head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the Department head does not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Department head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present that evidence at the hearing, the Department head shall remand the matter to the ALJ for consideration of the additional evidence.

(j) The Department head affirms, reduces, reverses, compromises, remands, or settles any penalty or assessment, determined by the ALJ in any initial decision.

(Authority: 31 U.S.C. 3803(i))

(k) The Department head promptly serves each party to the appeal with a copy of the decision of the Department head. At the same time the Department head serves the defendant with a statement describing the defendant's right to seek judicial review of a decision adverse to the defendant.

(Authority: 31 U.S.C. 3803(i)(2))

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805, after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Department head serves the defendant with a copy of the Department head's decision, a determination that a defendant is liable under § 33.3 is final and is not subject to judicial review.

(Authority: 31 U.S.C. 3805(a)(2))

§ 33.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Department head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Department head stays the process immediately. The Department head orders the process resumed only upon receipt of the written authorization of the Attorney General.

(Authority: 31 U.S.C. 3803(b)(3))

§ 33.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Department head.

(b) No administrative stay is available following a final decision of the Department head.

(Authority: 31 U.S.C. 3809)

§ 33.42 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Department head imposing penalties or assessments under this part and specifies the procedures for such review.

(Authority: 31 U.S.C. 3805)

§ 33.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

(Authority: 31 U.S.C. 3806, 3808(b))

§ 33.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 33.42 or § 33.43, or any amount agreed upon in a compromise or settlement under § 33.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

(Authority: 31 U.S.C. 3806)

§ 33.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

(Authority: 31 U.S.C. 3807(b))

§ 33.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(Authority: 31 U.S.C. 3809)

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(Authority: 31 U.S.C. 3803(j))

(c) The Department head has exclusive authority to compromise or

settle under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 33.42 or during the pendency of any action to collect penalties and assessments under § 33.43.

(Authority: 31 U.S.C. 3803(i)(2)(C))

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 33.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(Authority: 31 U.S.C. 3806(f))

(e) The investigating official may recommend settlement terms to the reviewing official, the Department head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Department

head, or the Attorney General, as appropriate.

(Authority: 31 U.S.C. 3809)

(f) Any compromise or settlement must be in writing.

(Authority: 31 U.S.C. 3809)

§ 33.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 33.8 within six years after the date on which such claim or settlement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 33.10(b) is deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

(Authority: 31 U.S.C. 3808)

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